United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

7-22

74-7096

United States Court of Appeals

For the Second Circuit.

SAMUEL H. SLOAN,

Plaintiff-Appellant,

-against-

CANADIAN JAVELIN LTD., AMERICAN STOCK EXCHANGE, DOW JONES & CO., JOHN C. DOYLE, WILLIAM M. WISMER, LEE & MARTIN, GEORGE B. MICKUM, STUART PINKERTON, STANDARD & POOR'S CORPORATION,

Defendants-Appellees.

JOINT APPENDIX

SAMUEL H. SLOAN, Pro Se
Plaintiff-Appellant
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Lynchburg, Va. 24503
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DATE	PROCEEDINGS	Date Judgm
ct.12-73	Filed Complaint & issued Summons	
ov.2-73	Filed deft's affidavit & notice of motion to dismiss complaint ret. 11-12-73.	
ov.2-73	Filed deft's Loeb Rhoades memorandum in support of its motion to dismiss.	
v.5-73	Filed deft's Muller & Co. affidavit & notice of motion ret.11-19-73, to dismiss action.	
ov.7-73	Filed Deft.Burns Bros&Timmins Inc.Interrog.to Pltff.	
ov.7-73	Filed ANSWER of Deft.Dyer Maguire Dritz & Co.	ALE
ov.7-73	Filed ANSWER of Deft.Burns Bros&Timmins Inc.	BAS
ov.12-73	Filed Deft's (Edward & Hanly) ANSWER	D&C
ov.12-73	Filed deft's (Canadian Javelin,Bison Petroleum , Canada Permanent Trust Co.& W.M. Wismer affidavit & notice of motion to dismiss action as to above deft's. ret.11-26-73.	
ov.12-73	Filed deft's memorandum of law in support of their motion to dismiss, ret.11-26-73.	
v.12-73	Filed deft's notice to amend return date of motion.	
ov.9-73	Filed stip & order that deft's time to answer complaint is ext. to, 11-20-73. Bonsal,J.	
ov.5-73	Filed ANSWER to complaint by deft. Bache & Co. & counterclaim.	S&C
ov 15-73	Filed deft', (The Miami Herald) ANSWER.	
v.29-73	Filed supplemental affidavit of I.L. Golomb in support of deft's, motion to dismiss.	
ov.19-73	Filed deft's interrogs to pltff.	
ov.19-73	Filed ANSWER to complaint by deft.- -In Error see 73 CIv 4402	-cp-
ov.26-73	Filed ANSWER to amended complaint by deft.(Dow Jones)	PES
ec. 3-73	Filed ANSWER to amended complaint by deft. Edwards & Hanly.	D&C
an.2-74	Filed deft's (Pressmen,Frohlich & Frost) affidavit & notice of motion, dismissing the complaint ret.1-14-74.	
an.2-74	Filed deft's memorandum of points & Authorities in support of motion to dismiss ret.1-14-74.	
an.8-74	Filed deft's(Edwards & Hanly) affidavit & notice of motion for judgment on the pleadings ret.1-14-74.	
an.8-74	Filed deft's memorandum of law in support of motion ret.1-14-74.	
an.2-74	Filed deft's Muller & Co. atty's notice of appearance.(filed 12-26-73)	
an.2-74	Filed Amended complaint.	
an.9-74	Filed Default Judgment#74,044: Ordered that deft. Bache & Co. have, default judgment in the amount of $31,606.03 against Samuel H., Sloan whose address is 120 Liberty St.N.Y. 10006. Judg. Ent. Clerk, Mailed notice. Ent. 1-10-74.	
an.22-74	Filed Certificate of Mailing summons & complaint by registered mail, to: CANADIAN JAVELIN LTD. 1115 SHERBROOKE STREET WEST MONTREAL 110 QUEBEC, CANADA Rec. No.458792	
	M.J.C. Doyle Canadian Javelin Ltd. 1115 Sherbrooke St.West Montreal,Quebec,Canada Rec. NO.458785	William M. Wismer-Rec.458784 Canadian Javelin Ltd. 1115 Sherbrooke St.West Montreal,Quebec,Canada
	S.Pinkerton Dow Jones & Co.Place du Canada Rec.458783 Pavonia S.A. 33 Avenida Frederico Boyd Panama 1,R.P. Rec.No.458781	Bison Petroleum & Minerals c/O Canadian Javelin Ltd Montreal,Quebec-Rec.458782

DATE	FILINGS--PROCEEDINGS	REPORTS ROLLING RETURN
	(Continued from Page #1)	
Jan.22-74	John Bouchard--Rec.458780 Bouchard & Co. Montreal,Quebec,Canada	Canada Permanent Trust Co. 600 Dorchester St. Montreal,Quebec- Rec.458786
	Oswald,Drinkwater & Graham Ltd.-Rec.458787 Sun Lake Building,Montreal,Canada	Wright Engineers, West Pender St. Vancouver-Rec.458791 British Columbia
	Robert-Benoit Major Canadian Javelin Ltd. Montreal,Quebec--Rec.458790 - 3-1-74 Lee & Martin-Rec.No.488430 - 3-1-74 432 Water St. St. Johns, Newfoundland	Davidson Partners Ltd. Victoria Square Montreal,Quebec Rec.NO.242308 - 3-1-
	A.I.S. Resources Ltd. Canadian Javelin Ltd. Montreal,Quebec-Rec.No.488431 - 3-1-74	Institutional Services Faiserstrasse 5 6 Frankfurt/Main West Germany-Rec.No.242309
	Engineering Services Ltd. 406 Kensington Montreal,Quebec-Rec.No.458789	Warts,Griffin & McDuat Ltd. Toronto,Canada-Rec.No.458783
	Technical Economists Ltd. Rec.No.242307 60 Adelaide E,Toronto, Canada	
Jan.31-74	Filed deft't (MCGraw-Hill,Inc) affidavit & notice of motion to dismiss complaint ret.2-11-74	
Jan.31-74	Filed deft's (McGraw-Hill,Inc.) memorandum of law in support of motion to dismiss ret.2-11-74.	
Feb.4 74	Filed deft's(Stewart Pinkerton) affidavit & notice of motion to dismiss complaint ret.2-11-74.	
Feb.4 74	Filed deft's memorandum of law in support of motion to dismiss, ret 2-11-74.	
Feb.4-74	Filed ANSWER to amended complaint by deft. Wood,Walker & Co.	D&C
Feb.13-74	Filed Order that time of deft. Pickands Mather & Co. to answer, is ext. to 3-13-74. Bonsal,J.	
Feb.13-74	Filed deft's attys (Dow Jones & Co. & Stewart Pinkerton), notice of change of address.	
Feb.13-74	Filed ANSWER of deft. Technical Economists Ltd. to amended complaint.	D&C

D. C. 110

DATE	PROCEEDINGS	AMOUNT
Feb.22-74	Filed summons with marhsals return, Served:	
	Pressman,Frohlech & Frost by Mr.P. Scott Sec. on 12-13-73.	
	Weis & Baer, Inc by Mr. L. Goodman on 1-29-74.	
	Edwards & Hanly by Mr. B. Soloman on 10-23-73.	
	Muller & Co. by M. Weisenberg. on 11-26-73.	
Feb.22-74	Filed ANSWER to amended complaint by deft. Watts,Griffis & McQuat.Ltd. (Filed on 2-14-74)	S&S
Feb.22-74	Filed summons with marshals return: Served:	
	Pickands,Mather & Co. by MrC.B.Pell. on 1-22-74.	
	Weis & Baer by L.Goodman " 1-29-74.	
	American Stock Ex.by Mr.Lee. " 1-16-74.	
	Steven L. Geard by Mr.Genand " 1-16-74.	
	Dow Jones & Co. by Mr. Werner " 1-9-74.	
	Standard & Poors Corp.by H.D.Horbach " 1-25-74.	
	The Miami Herald by J.A.Rembarser " 1-8-74.	
	McGraw-Hill Inc. by F.Jekle " 1-7-74.	
	Anthony Foote by office. " 1-11-74.	
	Burns Bros & Timmins by Mr. Fox. " 1-22-74.	
	Chartered New England Corp. by Mr.B.Zins " 1-15-74.	
	Dyer,Maguire Dritz & Co.by Jane Doe. " 1-23-74.	
	F.S. Moseley,Estabrook & Co. by J.Xpapas " 1-12-74.	
	Edwards & Hanly by R.Aronson " 1-16-74.	
	Robert Della " 1-16-74.	
	Raymond Aronson " 1-16-74.	
	Bache & Co. by Mr. Falis " 1-10-74.	
	Dominick & Dominick by Mr.D.Craig " 1-29-74.	
	Muller & Co. by M. Weisberg " 1-10-74.	
	Loeb,Rhodes & Co.by Mr. Lane " 1-22-74.	
	Pressman,Frohlich & Frost by Mr. Scott " 1-11-74.	
	World Mining by Jane Buswold " 1-8-74	
	Wood Walker & Co. by W.F.Haneman. " 1-22-74	
eb.25-74	Filed pltff's ProSe memorandum in opposition to various motions, to dismiss by Wright Engineers Ltd & in support of cross-motion.	
eb.25-74	Filed pltff's Pro Se Memorandum in opposition to various motions, to dismiss.	
eb.27-74	Filed pltff's notice of motion for summary judgement ret.3-11-74.	
.15-74	Filed deft's Wright Eng. notice of motion to dismiss complaint.	

DATE	FILINGS—PROCEEDINGS	A... REFERRED TO
Feb.27-74	Filed pltff's affidavit & cross-motion for summary judgment, ret.3-4-74.	
Mar.4-74	Filed deft's Standard & Poor's memorandum of law in response to pltff's memorandum in opposition to various motions, to dismiss.	
Mar.1-74	Filed pltff's notice of motion to consolidate ret.3-11-74. with 73-3801 -& 73-5074	
Mar.4 74	Filed pltff's motion for a stay ret.3-11-74. (Filed 3-1-74.)	
Mar.4-8 74	Filed pltff's motion for summary judgment ret.3-11-74. (filed, on 3 1-74.)	
Mar.5-74	Filed affidavit of Neil D. Baron in opposition to pltrf's, motion for summary judgment.	
Mar 5-74	Filed deft. Wright Engineers Limited notice of motion to, prevent discovery ret.3-18-74.	
Mar.5-74	Filed deft. Wright Eng. Ltd.reply memorandum in support of , motion ret.3-18-74.	
Mar.5 74	Filed deft. Wright Eng. Ltd. memorandum in opposition to pltff;s rule 37 motion.	
Mar.6-74	Filed deft. Pressman,Frohlich & Frost affidavit & notice of, motion ret. 3-11-74 to enjoin pltff. from further annoyance.	
Mar.6-74	Filed deft's memorandum in opposition to pltff's motion seeking, a stay of state court actions.	
Mar.7-74	Filed deft's The Miami Herald affidavit & notice of motion, (Cross-) for summary judgment ret.3-11-74.	
Mar.7-74	Filed deft's memorandum in support of his cross-motion & in opposition to pltff's motion for summary judgment.	
Mar.7-74	Filed pltff's memorandum in support of motion for a stay.	
Mar.8-74	Filed affidavit of M.B. Filson in response to pltff's motion , to consolidate.	
Mar.8-74	Filed Reply affidavit of M.B. Filson in further support of deft, Pinkerton's motion to dismiss.	
Mar.11-74	Filed affidavit of L.Toboroff in opposition to pltff's motion , for a stay.	
Mar.11-74	Filed affidavit of I.L. Golomb in opposition to pltff's motion, to consolidate.	
Mar.11-74	Filed affidavit of I.L. Golomb in opposition to pltff's motion, for summary judgment.	

DATE	FILINGS--PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS
Mar.8-74	Filed affidavit of Barbara M. Edmonson in opposition to pltff's, motion for a stay.	
Mar.8-74	Filed deft's Weiss & Baer memorandum in support of opposition to pltff's motion for a stay of state court proceedings.	
Mar.8-74	Filed affidavit of M.J.Murphy in opposition to pltff's applications, for summary judgment & Consolidation.	
Mar.11-74	Filed affidavit of Neil D. Baron in opposition to pltff's motion, to consolidate.	
Mar.13-74	Filed Order that time of deft. Pickands Mather & Co. to answer is, ext. to 4-15-74. Bonsal,J.	
Mar.20-74	Filed affidavit of S.H. Sloan in support of motion for summary judg.	
Mar.25-74	Filed affidavit of W.M.Drake in opposition to motion to consolidate, (Filed in 73 Civ 3801)	
Apr.10-74	Filed pltff's memorandum in opposition to motions to dismiss.	
Apr.10-74	Filed pltff's memorandum in support of motion to consolidate.	
Apr.12-74	Filed Order that time of deft. Pickands Mather & Co. to answer is, ext. to the tenth day after the entry of an order upon the decision on motions of other deft's currently pending before, the court. Bonsal,J.	
Apr.16-74	Filed deft's(Bache & Co.) affidavit & notice of motion to entry, final judgment ret.4-22-74.	
Apr.16-74	Filed deft's(Bache & Co.) memorandum in support of motion ret.4-22-74.	
Apr.17-74	Filed pltff's Pro-Se affidavit & notice of (Cross-Motion) for entry of a default judgement.	
Apr.17-74	Filed affidavit of S.H.Sloan in opposition to motion of Miller-Freeman Publications.	
Apr.17-74	Filed pltff's reply to counterclaim of Bache & Co.	
Apr.17-74	Filed affidavit of L.W.Nelson in opposition to motion for, default judgment.	
May 15-74	Filed Pltff's Further affdvt in opposition to motin of Deft.World Mining.	
May 15-74	Filed Reply Affdvt to Answering Affdvts of Bache&Co.	
May 17-74	Filed Certificate of Mailing of summons & complaint upon, ANGLO AMERICAN CORP. 44 MAIN STREET JOHANNESBURG,SOUTH AFRICA-Receipt No. 302345 -Rec. 5-28-74.	

Cont'd on page 8c

Civ 3801/ Samuel H. Sloan vs. Canadian Javelin Ltd, etal-73 C.44
4403
CIVIL DOCKET

DATE	FILINGS—PROCEEDINGS	AMOUNT
May.30-74	Filed OPINION #40747! Pltff's motion to consolidate 73-C.3801, 73 Civ 4403 with 73 Civ 5074 is denied. Deft's motion to dismiss the complaint of Dec.29-73 is granted & all pending complaints are dismissed with prejudice as to all deft's, except that with respect to CJV, Doyle & Wismer, all pending complaints are dismissed without prejudice. Bache's motion for a final judgment by default is denied. Settle order on notice. Bonsal,J. m/n	
Jun.6-74	Filed pltff's affidavit & notice of motion granting him leave to file an amended complaint ret.6-17-74.	
Jun.10-74	Filed affidavit of Alan Plotkin in opposition to pltff's motion for an order granting rehearing of the opinion.	
Jun.10-74	Filed affidavit of J.G. Samson Re: pltff's motion for a rehearing.	
Jun.13-74	Filed pltff's memorandum in support of motion for reargument.	
Jun.13-74	Filed affidavit of Neil D. Baron in opposition to pltff's motion.	
Jun.11-74	Filed ORDER & FINAL JUDGMENT: The amended complaint filed 12-29-7 is dismissed with costs & prejudice as to all deft's, except Canadian Javelin Ltd, John C. Doyle & William M. Wismer. The amended complaint filed on 12-29-73 is dismissed, without prejudice as to Canadian Javelin Ltd., John C.Doyle & William M. Wismer. Motion by deft. Bache & Co. for a final judgment on its counterclaim is denied. The default judgment (#74,044) of Bache & Co.is dismissed without prejudice, Final Judgment Ent. Clerk. m/n Ent. 6-13-74.	
Jun.14-74	Filed deft's Wright Engineers Ltd memorandum in opposition to pltff's motions fro rehearing & leave to file an amended complaint.	
Jun.14-74	Filed deft's Dow Jones & Co. & S.Pinkerton in opposition to pltff's motion for rehearing.	
Jun.14-74	Filed affidavit of E.L. Gordon in opposition to motion for reargument.	
Jun.14	Filed deft's Canadian Javelin,etals affidavit & notice of cross-motion granting leave to reargue ret.6-17-74.	
Jun.13-74	Filed affirmation of G.C.Baron in opposition to pltff's motion for reargument.	
Jun.17-74	Filed Memo-endorsed on pltff's motion filed 6-6-74 to file an amended complaint: Motion denied after argument. So ordered. Bonsal,J.	

		RETURNS
Jan.24-74	Filed pltff's affidavit & notice of motion for leave to proceed in forma pauperis ret.7-1-74.	
Jan.24-74	Filed affidavit of N.D.Baron in opposition to pltff's motion ret. 7-1-74.	
Jan.24-74	Filed deft's Standard & Poor's & McGraw-Hill memorandum of law, in opposition to pltff's motion ret.7-1-74.	
Jan.28-74	Filed affidavit of I.L. Golomb in opposition to pltff's motion, for leave to proceed in forma pauperis.	
Jul. 1-74	Filed supplemental affidavit of S.H. Sloan in further support of, motion to proceed in forma pauperis.	
Jun.26-74	Filed pltff's notice of appeal to the USCA from opinion dated, 5-30-74: Mailed copies to Diamond & Golomb, Booth & Baron, Lord, Day & Lord, Patterson, Bellknapp & Webb, Sullivan & Cromwell, Delson & Gordon, Butowsky, Schwenke & Devine, Cravath, Swaine & Moore, Breed, Abbott & Morgan, Leonard, Toboroff, Malcolm A. Hoffman, Stroock, Stroock & Lavan, Abraham L. Bienstock, Olitt, Friedberg & Kagel, Bressler, Meislin, Tauber & Lipsitz, Lunney & Crocco, Sibberfeld, Danziger & Bangser, Satterlee & Stephens, Larry Grimes.	
Jul 1-74	Filed stipulation dismissing appeal as to certain defendants.	
Jul 3-74	filed notice of motion of defts. Chartered New England Cop. F?S. MCCELEY, ESTABROOK to strike the complaint pursuant to Rule 12B	
Jul 8-74	Filed memo. in opposition to motionss (by plaintiff)	
Jul 8-74	~~Filed pltf's Affidavit in Opposition to motion of Deft Muller & CO. t dismiss~~	
Jul 8-74	~~Filed pltf's Affidavit in Opposition to motion of Loeb Rhoeds & co.~~ to dismiss.	
Jul 8-74	Filed Affidavit of deft. Loeb, etc. in support of motion to dismiss.	
Jul 8-74	Filed copy of latter dtd: Jan 31-74 from Reichwald to Sloan.	
Jul 8-74	Filed notice of motion ofm defts Chartered New England , F.s. Mosele Estabrook to strike the complaint.	
Jul 8-74	Filed affidavit in opposition to motion for summary Judgment, etc.	
Jul 8-74	~~Filed letter dtd: Mar 20-74 from Delson & Gordon to Judge Bonsal.~~	

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk

By _____
Deputy Clerk

DATE	PROCEEDINGS	Judge
Sep4-73	Filed complaint and issued summons.	
Sep 13-73	Filed Certificate of Mailing on 9/12/73 to: #305899-CANADIAN JAVELIN LTD. 1111 Sherbrooke St. Montreal, Canada -Rec'd 9/15/73; #305900-LEE & MARTIN ST. JOHNS NEWFOUNDLAND-Rec'd 9/17/73; #305901-JOHN C.DOYLE, Hotel E.PANAMA PANAMA 1, R.P. Rec'd 2-26-74; #305902-WILLIAM M.WISMER 1111 Sherbrooke St. Montreal, Canada -Recd 9/14	
Sep 20-73	Filed Deft.George B.Mickum's Notice to take oral deposition of Samuel N.Baron on Monday, 10/1/73, 10:00 A.M.	
Oct 2-73	Filed Deft.Standard&Poor's Corp.Affdvt&Mot.on to dismiss complaint, ret.10/23/73 9:30 A.M., Room 1506.	
Oct 2-73	Filed Memorandum on behalf of Deft.Standard&Poor's Corporation.	
Oct. 5-73	Filed Deft.American Stock Exchange,Inc.'s ANSWER.	
Oct.5-73	Filed Deft.Standard&Poor's corporation's Notice to Take Oral Deposition of Pltff ret.10/19/73.	
Oct.9-73	Filed Stip & Order of Discontinuance against deft.George B.Mickum without prejudice as to any rights pltff may have against the other defts herein.BONSAL,J.	
Oct.11-73	Filed Deft.Canadian Javelin Limited's Affdvt&Notice of Motion for an order dismissing complaint,etc.ad indicated ret.10/23/73.	
Oct.11-73	Filed Memorandum of Law of Deft.Canadian Javelin Limited in support of motion to dismiss this action against it.	
Sep 28-73	Filed Summons with Marshal's Returns.Served: American Stock Exchange by J.McLoughlin,Asst.VP on 9/13/73; Dow Jones&Co by K.Cuddy,Secy to Pres on 9/13/73; George B.Mickum by personal service on 9/13/73; Stuart Pinkerton by K.Cuddy Secy to Pres on 9/13/73; Standard &Poors Corp by Mr Patterson,Treas on 9/7/73	
Oct.17-73	Filed affidavit of M.J. Murphy in support of motion to dismiss.	PB
Oct.11-73	Filed ANSWER to complaint by deft.Dow Jones & Co.	
Oct.11-73	Filed deft's G.B.Mickum notice to take deposition of pltff.	
Oct.18-73	Filed supplemental affidavit of I.L.Golomb Re: motion to dismiss.	
Nov 5-73	~~Filed ANSWER of Deft Bache&Co Inc.--(In Error See 73 Civ 4403)~~	
Nov 8-73	Filed deft's ANSWER	
Nov.14-73	Filed supplemental affidavit of N.D.Baron in support of deft's motion to dismiss.	
Jan.4-74	Filed deft's (Standard & Poor's) affidavit & notice of motion to dismiss complaint as to them ret.1-14-74.	
Jan.4-74	Filed deft's(Canadian Javelin,Bison Petroleum & Minerals Ltd,Canada, Permanent Trust Co. & W.M.Wismer)affidavit & notice of motion, to dismiss complaint against them ret. 1-14-74.	
Jan.11-74	Filed supplemental affidavit of Neil Baron in support of motion to dismiss by deft.Standard & Poor Corp.	
Jan.11-74	Filed Deft.American Stock Exchange's Affdvt in motions to dismiss actions.	
Jan.31-74	Filed deft's(McGraw-Hill) affidavit & notice of motion to dismiss complaint ret. 2-11-74.	
Jan.31-74	Filed deft's(McGraw-Hill) memorandum of law in support of motion, ret.2-11-74.	
Feb.1-74	Filed pltff's notice of motion to consolidate ret.3-11-74.	

TE	PROCEEDINGS	Date of Judgment
.11-74	Filed affidavit of I.L. Golomb in opposition to pltff's motion to, consolidate.	
.11-74	Filed affidavit of N.D.Baron in opposition to pltff's motion to, consolidate.	
.25-74	Filed affidavit of W.M.Drake in opposition to motion to consolidate.	
.10-74	Filed pltff's memorandum in support of motion to consolidate.	
.11-74	Filed deft's World Mining Affidavit & notice of motion to dismiss, action as against deft. World Mining Ret. 4-22-74.	
28-74	Filed Deft.Miller Freeman Publications, Inc.Affdvt in response to pltff's answering affdvt in opposition to said deft's motion to dismiss amended complaint.	
.30-74	Filed OPINION #40747: Pltff's motion to consolidate 73Civ 3801, 73 Civ 4403 with 73 Civ 5074 is denied. Deft's motions to dismiss, the complaint of Dec. 29,1973 is granted & all pending complaints, are dismissed with prejudice as to all deft's, except that with, respect to CJV,Doyle & Wismer, all pending complaints are, dismissed without prejudice. Bache's motion for a final judgment, by default is denied. Settle order on notice. Bonsal,J. m/n	
.[illegible]-74	Filed pltff's affidavit & notice of motion granting leave to file an amended complaint ret.6-17-74.	
.10-74	Filed affidavit of Alan Plotkin in opposition to motion by pltff for, order rehearing of the opinion.	
.10-74	Filed affidavit of J.G. Samson Re: pltff's motion for a rehearing.	
13-74	Filed pltff's memorandum in support of motion for reargument.	
13-74	Filed affidavit of Neil D. Baron in opposition to pltff's motion.	
11-74	Filed Order & Final Judgment: The amended complaint filed 12-29-73, is dismissed with costs & prejudice as to all deft's except, Canadian Javelin Ltd,John C. Doyle & William M. Wismer. The, amended complaint, filed on 12-29-~~74~~,1973 is dismissed without, prejudice as to Canadian Javelin Ltd, John C. Doyle & William M, Wismer. Motion by deft. Bache & Co. for final judgment on its, counterclaim is denied. The default Judgment ($74,044)or Bache, & Co.is dismissed without prejudice. Bonsal,J. Judg.Ent. Clerk. Mailed notice. Ent.6-13-74.	
.14-74	Filed deft's Dow Jones & Stewart Pinkerton memorandum in opposition, to pltff's motion for rehearing.	
.14-74	Filed affidavit of Evan L. Gordon in opposition to motion for re-argument. (Cross)	
.14-74	Filed deft's Canadian Javelin,etal affidavit & notice of (motion) granting leave to reargue ret/6-17-74.	
.13-74	Filed affirmation of George C. Baron in opposition to pltff's motion, for reargument.	
.17-74	Filed affidavit in opposition by H.J.Friedberg for a rehearing on, court's dismissal.	
[illegible]	Filed [illegible] See below	
[illegible]	Filed Memo-endorsed on deft's CanadianJavelin, etals motion filed 6-14-74 granting leave to reargue: Motion denied after argument. So ordered. Bonsal,J.	
[illegible]	Filed pltff's affidavit & notice of motion for leave to proceed in forma pauperis ret. 7-1-74.	
[illegible]	Filed affidavit of H.D. Baron in opposition to pltff's motion ret. 7-1-74.	
[illegible]	Filed deft's Cross-Hill & Standard Poor's memorandum of law in opposition to pltff's motion ret.7-1-74.	

Cont'd on page #3

DATE	PROCEEDINGS	Dat. Jud.
n.2[illegible]-74	Filed affidavit of I.L.Golomb in opposition to motion of pltff to proceed his proposed appeal in forma pauperis.	
6.1-74	Filed supplemental affidavit of pltff. in further support of motion, to proceed in forma pauperis.	
.28-74	Filed pltff's notice of appeal to the USCA from all those parts of opinion dated 5-30-74 ; Mailed copies to Diamond & Golomb, Booth & Baron, Lord, Day & Lord, Patterson, Belknapp & Webb, Sullivan & , Cromwell, Dolson & Gordon, Butowsky, Schwenke & Devine, Cravath, Swaine & Moore, Breed, Abbott & Morgan, Leonard Toboroff, Malcolm , A. Hoffman Stroock, Stroock & Lavan, Abraham L. Bienstock, Olitt, Friedberg & Kagel, Bressler, Meislin, Tauber & Lipsitz, Lunney & Crocco, Sibberfeld, Danziger & Bangser, Satterlee & Stephens, & Larry Grimes	

A TRUE COPY
[illegible] Clerk

By [signature] Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN

Plaintiff,

-against-

CANADIAN JAVELIN LTD.
AMERICAN STOCK EXCHANGE
DOW JONES & CO.
JOHN C. DOYLE
WILLIAM M. WISNER
LEE & MARTIN
GEORGE B. MICHUM
STUART PINKERTON
STANDARD & POORS CORP.

Defendants.

COMPLAINT

Samuel H. Sloan, being duly sworn, deposes and says:

1. Jurisdiction of this court arises under Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. 78aa.

2. Canadian Javelin Ltd. ("Javelin") is a publicly owned Dominion corporation whose shares are listed on the American Stock Exchange.

3. Javelin has employed a wide variety of fradulent means to cause an artificial rise in the price of its stock.

4. Javelin has a long history of fraud and decention over the course of its 22 year history.

5. Defendant American Stock Exchange has given its official sanction to these fradubant and manipulative practices by allowing Javelin to trade on the American Stock Exchange.

6. Defendant Dow Jones & Co. which operatews both the Wall Street Journal and the Dow Jones News Service has printed numerous false, misleading, and untrue press releases about Javelin and has refused to print reliable but adverse information about Javelin.

7. Defendant Stuart Pinkerton, who has authority over all reports about Javelin by Dow Jones & Co. is responsible for these fraudulant practices.

8. Defendant John C. Doyle is the Chairman of the Board of Javelin and defendant William M. Wismer is the President of Javelin. They have dessimated false and misleading news releases to Dow Jones & Co.

9. Defendant Lee & Martin has utilized dubious accounting methods to contrive financial statements which do no accurately reflect the financial position of Javelin.

10. Defendant George B. Mickum has filed false and misleading information with the S.E.C. and has accused plaintiff of manipulating the market in Javelin shares.

11. Defendant Standard & Poors Corp. has dessimated to the public and to other financial services false and contrived information about Javelin. For the current year Standard & Poor's reports a profit of 3¢ whereas in reality Javelin reported a substantial loss.

12. Plaintiff has suffered greatly because of the acts of the various defendants. For this reason plaintiff is entitled to actual and punitive damages of $150,000.

WHEREFORE, plaintiff demands judgement in the amount of $150,000 plus costs.

Samuel H. Sloan

Sworn to before me this
27 day of August, 1973.

SOUTHERN DISTRICT OF NEW YORK

U. S. DISTRICT COURT
OCT 2 1973
S. D. OF N. Y.

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.,
AMERICAN STOCK EXCHANGE,
DOW JONES & CO.,
JOHN C. DOYLE,
WILLIAM M. WISMER
LEE & MARTIN,
GEORGE B. MICKUM,
STUART PINKERTON,
STANDARD & POOR'S CORPORATION,

Defendants.

Civil Action No. 3801/73

D13

NOTICE OF MOTION
AND MOTION TO DISMISS COMPLAINT

TO: SAMUEL H. SLOAN, Pro Se
11 Broadway
New York, N. Y. 10004

PLEASE TAKE NOTICE that Defendant Standard & Poor's Corporation ("Defendant") will move, pursuant to Section 12(b) of the Federal Rules of Civil Procedure, before this Court at Room 1506, U. S. Court House, Foley Square, New York, New York 10007, on the 23rd day of October, 1973 at 9:30 o'clock in the forenoon, or as soon thereafter as counsel can be heard for an order dismissing the action as against Defendant on the grounds that:

1. the court lacks jurisdiction because it appears on the face of the complaint that the alleged claim does not arise under the Constitution, laws, or treaties of the United States as is alleged therein; and

2. the complaint fails to state a claim against Defendant upon which relief can be granted.

Yours, etc.

BOOTH & BARON
Attorneys for Defendant
Standard & Poor's Corporatio
122 East 42nd Street
New York, New York 10017
Tel. (212) 682-0903

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.,
AMERICAN STOCK EXCHANGE,
DOW JONES & CO.,
JOHN C. DOYLE,
WILLIAM M. WISMER,
LEE & MARTIN,
GEORGE B. MICKUM,
STUART PINKERTON,
STANDARD & POOR'S CORPORATION,

Defendants.

Civil Action No.3801/73

AFFIDAVIT OF DEFENDANT STANDARD & POOR'S CORPORATION IN SUPPORT OF MOTION TO DISMISS THE COMPLAINT

----------x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

NEIL D. BARON, being duly sworn, deposes and says:

1. I am an attorney at law and member of the law firm of Booth & Baron, attorneys for the Defendant Standard & Poor's Corporation ("Defendant") herein, and I am familiar with the facts and proceedings heretofore had herein and make this affidavit in support of Defendant's motion to dismiss the complaint.

2. Plaintiff commenced this action as to Defendant by the service of a Summons and Complaint on September 9, 1973 under Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. 78 aa.

3. Defendant is a registered Investment Adviser primarily in the business of publishing financial, factual and statistical reports regarding securities. The information

contained in Defendant's publications is gathered from filings with the Securities and Exchange Commission and other governmental agencies, press releases, annual reports, and directly from the companies involved. Defendant's publications have a wide base of subscribers ranging from large financial institutions, such as banks and insurance companies, to the public investor.

Defendant published information regarding Canadian Javelin Ltd. in it Standard ASE Stock Report service and its Standard Corporation Description service. The latter service is comprised of several main volumes listing companies in alphabetical order, and a Daily News volume which contains more current information. The information in the Daily News volume eventually is entered in the main volumes. The information contained in both of these services is of a financial, statistical and factual nature. No recommendations are made by either service. Nevertheless Defendant's records indicate that Plaintiff was not a subscriber to either service.

All of Plaintiff's allegations as to acts of Defendant are found in paragraph 11 of the complaint (which Defendant denies in its entirety), to wit:

> "11. Defendant Standard & Poor's Corporation has dessimated [sic] to the public and to other financial services false and contrived information about Javelin. For the current year Standard & Poor's reports a profit of 3 cents whereas in reality Javelin reported a substantial loss."

Further, the only allegations as to Plaintiff's damages appear in paragraph 12 of the complaint (which Defendant denies as it relates to Defendant), to wit:

> "12. Plaintiff has suffered greatly because of the acts of the various defendants. For this reason plaintiff is entitled to actual and punitive damages of $150,000."

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

SAMUEL H. SLOAN, :

Plaintiff, :

-against- :

CANADIAN JAVELIN LTD., et al., :

Defendants. :

----------x

73 CIV 3891
DNE

ANSWER

Defendant, American Stock Exchange, Inc., by its attorneys, Lord, Day & Lord, for its answer to the complaint herein alleges:

1. Denies the allegations contained in paragraphs 1, 5 and 12 of the complaint.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3, 4, 6, 7, 8, 9, 10 and 11 of the complaint.

FOR A FIRST AFFIRMATIVE DEFENSE

3. The complaint fails to state a claim upon which relief may be granted.

FOR A SECOND AFFIRMATIVE DEFENSE

4. This Court lacks such matter jurisdiction over the claim purported to be alleged.

FOR A THIRD AFFIRMATIVE DEFENSE

5. The plaintiff lacks the requisite standing to maintain an action under the Securities Exchange Act of 1934.

WHEREFORE, defendant American Stock Exchange, Inc. demands judgment dismissing the complaint, awarding it its costs and disbursements and such other and further relief as to this Court may seem just and proper.

LORD, DAY & LORD

By _____

Attorneys for Defendant
American Stock Exchange, Inc.
25 Broadway
New York, New York 10004
(212) 344-8480

WHEREFORE, defendant American Stock Exchange, Inc. demands judgment dismissing the complaint, awarding it its costs and disbursements and such other and further relief as to this Court may seem just and proper.

LORD, DAY & LORD

By _____

Attorneys for Defendant
American Stock Exchange, Inc.
25 Broadway
New York, New York 10004
(212) [illegible]4-8480

FILED
US DISTRICT COURT
S.D. OF N.Y.
OCT 11 10 46 AM '73

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN, Plaintiff, -against- CANADIAN JAVELIN LTD. AMERICAN STOCK EXCHANGE DOW JONES & CO. JOHN C. DOYLE WILLIAM M. WISMER LEE & MARTIN GEORGE B. MICKUM STUART PINKERTON STANDARD & POORS CORP., Defendants.	ANSWER 73 Civ. 3801 DBB

The defendant DOW JONES & COMPANY, INC. ("DOW JONES") by its attorneys, Patterson, Belknap & Webb, for its answer to the complaint herein:

1. Denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered 1, 2, 3, 4, 5, 8, 9, 10, 11 and 12 of the complaint.

2. Denies each and every allegation contained in paragraphs 6 and 7 of the complaint, except admits that Dow Jones publishes The Wall Street Journal and The Dow Jones News Service.

FIRST DEFENSE

The complaint fails to state a claim against Dow Jones upon which relief can be granted in that plaintiff has failed to set forth the elements necessary to constitute a claim under Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934.

SECOND DEFENSE

Plaintiff lacks standing to sue under Section 10(b)

and Rule 10b-5 of the Securities Exchange Act of 1934 in that the complaint fails to allege that plaintiff was a purchaser or seller of a security.

THIRD DEFENSE

The Court lacks jurisdiction over the subject matter of this action because it appears from the face of the complaint that the action does not arise under the Constitution, laws or treaties of the United States.

FOURTH DEFENSE

The granting of relief to the plaintiff as against Dow Jones would consist of an abridgment of rights guaranteed to defendant Dow Jones by the First and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, defendant Dow Jones requests judgment dismissing the complaint as to it together with costs and disbursements of this action.

Dated: New York, New York
October 3, 1973

PATTERSON, BELKNAP & WEBB
Attorneys for Defendant
Dow Jones & Company, Inc.

By: Robert A. Leek
A member of the firm

Office & P.O. Address
One Wall Street
New York, New York 10005
Telephone: (212) 943-1300

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN
Plaintiff,

-against-

CANADIAN JAVELIN LTD.
AMERICAN STOCK EXCHANGE
DOW JONES & CO.
JOHN C. DOYLE
WILLIAM M. WISMER
LEE & MARTIN
GEORGE B. MICKUM
STUART PINKERTON
STANDARD & POORS CORP.
Defendants.

73 CIV. 3301

COMPLAINT

FILED
SEP 4 1973
U.S. DISTRICT COURT
S.D. OF N.Y.

Samuel H. Sloan, being duly sworn, deposes and says:

1. Jurisdiction of this court arises under Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. 78aa.

2. Canadian Javelin Ltd. ("Javelin") is a publicly owned Dominion corporation whose shares are listed on the American Stock Exchange.

3. Javelin has employed a wide variety of fradulant means to cause an artificial rise in the price of its stock.

4. Javelin has a long history of fraud and decention over the course of its 22 year history.

5. Defendant American Stock Exchange has given its official sanction to these fradulent and manipulative practices by allowing Javelin to trade on the American Stock Exchange.

6. Defendant Dow Jones & Co. which operatews both the Wall Street Journal and the Dow Jones News Service has printed numerous false, misleading, and untrue press releases about Javelin and has refused to print reliable but adverse information about Javelin.

7. Defendant Stuart Pinkerton, who has authority over all reports about Javelin by Dow Jones & Co. is responsible for these fraudulant practices.

8. Defendant John C. Doyle is the Chairman of the Board of Javelin and defendant William M. Wismer is the President of Javelin. They have dessimated false and misleading news releases to Dow Jones & Co.

9. Defendant Lee & Martin has utilized dubious accounting methods to contrive financial statements which do no accurately reflect the financial position of Javelin.

10. Defendant George B. Mickum has filed false and misleading information with the S.E.C. and has accused plaintiff of manipulating the market in Javelin shares.

11. Defendant Standard & Poors Corp. has dessimated to the public and to other financial services false and contrived information about Javelin. For the current year Standard & Poor's reports a profit of 3¢ whereas in reality Javelin reported a substantial loss.

12. Plaintiff has suffered greatly because of the acts of the various defendants. For this reason plaintiff is entitled to actual and punitive damages of $150,000.

WHEREFORE, plaintiff demands judgement in the amount of $150,000 plus costs.

Samuel H. Sloan

Sworn to before me this
[illegible] day of August, 1973.

[illegible]
Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT ... S.D. OF N.Y. Oct 12 12 52 PM '73

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN; STUART PINKERTON; STANDARD & POORS CORP.; BISON PETROLEUM & MINERALS LTD.; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; MIAMI HERALD; PICKANDS, MATHER & CO.; BRIG. GEN. OMAR TORREJOS; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS. & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINEK & DOMINEK INC.; DYER MAGUIRE DRETZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER & SMITH; F.S. MOSELEY, ESTABROOK; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.;

Defendants.

PRO SE

COMPLAINT

73 CIV. 4403

Samuel H. Sloan, being duly sworn, deposes and says:

1. Jurisdiction of this court arises under Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. 78aa and the principles of pendent jurisdiction.

2. This action is brought under Rules 10(b) and 10(b)-5 and other rules of the Securities Exchange Commission and under Section 10(b) and other Sections of the Securities Exchange Act of 1934 and sections of the Securities Act of 1933.

3. Canadian Javelin Ltd. ("Javelin") is a publicly owned Dominion corporation whose shares are listed and traded on the American Stock Exchange.

4. Javelin has employed a wide variety of fraudulent means to cause an artificial rise in the price of its stock.

5. Javelin has a long history of fraud and deception over the course of its 22 year history. This history goes

back to the days when Walter Winchell used to tout Javelin shares over the radio and even earlier. Javelin was suspended from trading by the S,E.C. in 1971 and again in 1972 because of fraudulent practices by the company, its officers, and its subsidiaries.

6. Defendant American Stock Exchange has given its official sanction to these fraudulent and manipulative practices by allowing Javelin to trade on the American Stock Exchange.

7. Defendant Dow Jones & Co. which operates both the Wall Street Journal and the Dow Jones News Service has printed numerous false, misleading, and untrue press releases about Javelin and has refused to print reliable but adverse information about Javelin.

8. Defendant Stuart Pinkerton who is the Montreal branch Chief for Dow Jones & Co. and who has authority over and responsibility for all reports and stories about Javelin by Dow Jones & Co. has participated in these fraudulent practices.

9. Defendant John C. Doyle is the Chairman of the Board of Javelin and defendant William M. Wismer is the President of Javelin. They have disseminated false and misleading news releases to Dow Jones & Co. directly and through Javelin subsidiaries Bison Petroleum & Minerals Ltd. and Peronia, S.A. These news releases have also gone to other representatives of the news media and to Javelin shareholders.

10. Plaintiff is currently the registered owner of 13 shares of Javelin and has received numerous fraudulent reports including the annual report to shareholders as a result.

11. Defendant Lee & Martin has utilized dubious accounting methods to continue financial statements of Javelin which do not accurately reflect the financial position of Javelin.

12. Javelin has filed fraudulent 10-K, 10-Q and 8-K reports with the S.E.C. which plaintiff has purchased and read and upon which he has relied.

13. Defendant Standard & Poors Corp. has disseminated to the public and to other financial services false and contrived information about Javelin. For the year ending March 31, 1973 Standard & Poors reports a profit of 3¢ per share whereas in reality Javelin reported a substantial loss.

14. Defendant Miami Herald has published at least one newspaper article which is outrageously fraudulent and obviously designed to promote the price of Javelin shares.

15. Defendant Canada Permanent Trust Co. is the transfer agent for Javelin and made an unregistered distribution of Javelin shares in 1971 and again in 1972 as a result of a stock dividend.

16. Defendant John Bouchard has acted in concert with defendants Doyle and Wismer to promote the price of Javelin shares and has caused Bouchard & Co. to make a firm recommendation of Javelin.

17. Defendant Pickands, Mather & Co. is the sole source of income for Javelin. It has participated in a scheme to defraud both creditors and shareholders of Javelin by the irregular method by which it makes royalty payments to Javelin.

18. Defendant Brig. Gen. Omar Torrejos is the President of the Republic of Panama. He has had alleged conversations and made alleged agreements with officers of Javelin which are designed to mislead the public.

19. Defendant Wright Engineers Ltd. is a Vancouver mining consulting firm. It has participated in a scheme to defraud by the issuance of favorable feasibility reports to the public and the failure to issue unfavorable feasibility reports and other information about the exploration concession Javelin has in Panama and by providing credance for the fraudulent statements of Javelin.

20. Plaintiff has suffered damages in the amount of $170,000 as a result of the purchase, sales, and borrowing of Javelin shares by him. These purchases, sales and borrowings were effected either directly or indirectly to or through the sixteen stock brokerage firms names as defendants who were acting either as agent or as principal.

WHEREFORE, plaintiff demands judgement in the amount of $170,000 plus costs and interest.

Samuel H. Sloan

SAMUEL H. SLOAN

Sworn to before me this
10th day of October, 1973.

Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., AMERICAN STOCK EXCHANGE, DOW JONES & CO., JOHN C. DOYLE, WILLIAM M. WISMER, LEE & MARTIN, GEORGE B. MICKUM, STUART PINKERTON, STANDARD & POOR'S CORPORATION,

Defendants.

AFFIDAVIT

Civil Action No. 3801/73 (D66

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MICHAEL J. MURPHY, being duly sworn, deposes and says:

I am a member of the bar of this Court and an associate of the firm of Lord, Day & Lord, attorneys for defendant American Stock Exchange in the above captioned action.

On September 28, 1973, defendant Standard & Poor's Corporation moved this Court for an order dismissing the complaint herein on the grounds that this Court lacks subject matter jurisdiction, and that the complaint fails to state a claim upon which relief may be granted.

On October 4, 1973, defendant Canadian Javelin Ltd. moved this Court for an order dismissing the complaint in this action on the ground that, among others, the complaint fails to state a claim upon which relief may be granted.

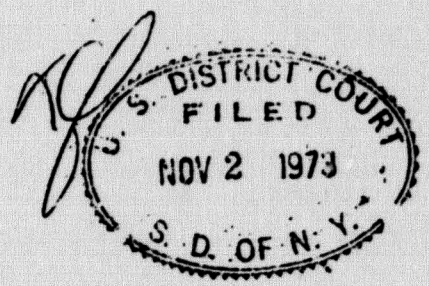
The only reference in the complaint herein to defendant American Stock Exchange appears in paragraph 5 which alleges that the American Stock Exchange sanctioned unspecified "fraudulent and manipulative practices" by allowing Canadian Javelin to trade on the American Stock Exchange.

Accordingly, on behalf of defendant American Stock Exchange, we hereby join in the abovementioned motions. We respectfully submit that for the same reasons pointed out in the memorandum of law submitted on behalf of defendant Standard & Poor's, and Point III of the memorandum of law submitted on behalf of Canadian Javelin, this action should also be dismissed as to defendant American Stock Exchange.

MICHAEL J. MURPHY

Sworn to before me this
15th day of October, 1973.

GRAINE GENOVESE
Notary Public, State of New York
No. [illegible]
Qualified in [illegible] County
Certificate filed in New York County
Commission Expires March 30, 1975



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

73 Civ. 4403 (DBB)

Plaintiff, :

-against- : NOTICE OF MOTION

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- x

PLEASE TAKE NOTICE that, upon the complaint and the affidavit of Murray Cwass, sworn to October 31, 1973, the undersigned will move before the Hon. Dudley B. Bonsal at Room 1506 in the United States Courthouse, Foley Square, New York, on November 12, 1973 at 9:30 a.m., or as soon thereafter as counsel can be heard, pursuant to Rules 9(b), 12(b)(6) and 12(e) of the Federal Rules of Civil Procedure for an order dismissing the above-entitled action as against Loeb, Rhoades &

Co. for failure to state a claim upon which relief can be granted and for failure to aver with particularity the circumstances constituting the fraudulent conduct referred to in the complaint, or, in the alternative, requiring the plaintiff to serve a more definite statement.

Dated: New York, New York
November 1, 1973

STROOCK & STROOCK & LAVAN

BY _____
A Member of the Firm
Attorneys for Defendant
Loeb, Rhoades & Co.
61 Broadway
New York, New York 10006
(212) 425-5200

TO: Samuel H. Sloan
Plaintiff, Pro Se
120 Liberty Street
New York, New York 10006

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, : 73 Civ. 4403 (DBB)

Plaintiff, :

-against- : AFFIDAVIT

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MURRAY CWASS, being duly sworn, deposes and says:

1. I am a Vice-President of Loeb, Rhoades & Co., Inc. and Manager of the Margin Department of Loeb, Rhoades & Co. I make this affidavit in support of a motion made by defendant Loeb, Rhoades & Co. (Loeb, Rhoades) for an order dismissing the complaint in the above-entitled action for failure to state a claim upon which relief can be granted, or, in the alternative, requiring the plaintiff to serve a more definite statement. I am fully familiar with the facts set forth herein.

THE COMPLAINT

2. The complaint purports to be brought under "Rules 10(b) and 10(b)-5 and other rules of the Securities Exchange Commission and under Section 10(b) and other Sections of the Securities Exchange Act of 1934 and sections of the

Securities Act of 1933." Apparently, plaintiff is claiming a securities fraud in connection with his purchase and sale, during an unspecified time, of the stock of Canadian Javelin, Ltd.

3. The complaint contains 20 paragraphs of which the first 19 describe each of the defendants, other than the brokerage defendants, and, in a most general and conclusory fashion, allege fraudulent and manipulative practices with respect to each of those defendants. Illustrative of such allegations are paragraph 4 which alleges that Canadian Javelin "has employed a wide variety of fraudulent means to cause an artificial rise in the price of its stock"; paragraph 6 which alleges that "defendant American Stock Exchange has given its official sanction to t..ese fraudulent and manipulative practices. . ." by permitting the stock to trade thereon; and paragraph 7 which alleges that "Defendant Dow Jones & Co. . . .has printed numerous false, misleading, and untrue press releases about Javelin. . . ." A copy of the complaint is attached hereto as Exhibit A.

4. The brokerage defendants, of which Loeb, Rhoades is one, are lumped together in paragraph 20 of the complaint. That paragraph reads:

> "20. Plaintiff has suffered damages in the amount of $170,000 as a result of the purchase, sales, and borrowing of Javelin shares by him. These purchases, sales and borrowings were effected either directly or indirectly to or through the sixteen stock brokerage firms names (sic) as defendants who were acting either as agent or as principal."

LOEB, RHOADES' RELATIONSHIP WITH PLAINTIFF

5. After receiving the summons and complaint, Loeb, Rhoades caused a search of its files to be made to determine whether it has ever maintained an account for the plaintiff. That search indicated that Loeb, Rhoades has not, at any time, carried an account for the plaintiff. However, Loeb, Rhoades did determine that an account was carried in the name of Samuel Sloan & Co., which maintained its offices at 11 Broadway, New York, New York. Loeb, Rhoades is not aware of any information which would link the plaintiff to that customer other than the similiarity in names. The complaint makes no mention of any relationship.

6. Samuel Sloan & Co. was not a direct customer of Loeb, Rhoades, but rather of Pressman, Frohlich & Frost, another named defendant, for which brokerage company Loeb, Rhoades performed the administrative function of clearing securities trades.

7. A clearing broker has no direct contact with the introducing broker's (in this case, Pressman, Frohlich & Frost's) customer. An order to buy or sell a particular security is received on behalf of the customer from the introducing broker and Loeb, Rhoades merely performs the administrative function of purchasing or selling the security, including the resultant paper work, such as the confirmation of the trade and the preparation of a monthly statement.

8. The records of Loeb, Rhoades indicate that the only trade relating to Canadian Javelin which was made

for the account of Samuel Sloan & Co. was the sale of 1,000 shares of Canadian Javelin at a total price of $9,249.98. Thereafter, Samuel Sloan & Co. failed to deliver the stock which it had sold and it was necessary to buy in 1,000 shares of Canadian Javelin at a total price of $13,325.13. The required buy-in resulted in a debit to Samuel Sloan & Co. of $4,060.95, which amount was charged back to Pressman, Frohlich & Frost, the introducing broker. A copy of the relevant account statement is annexed hereto as Exhibit B.

9. Loeb, Rhoades understands that the introducing broker brought an action against Samuel Sloan & Co. for the deficit amount, which action is presently pending.

10. Neither paragraph 20 of the complaint, which is the only paragraph of the complaint which makes any mention of Loeb, Rhoades & Co., by way of lumping it together with some 16 other brokerage firms, nor the facts as stated above, would give rise to any cause of action on behalf of plaintiff, or, assuming a relationship with Samuel Sloan & Co., on behalf of that company.

11. As presently drafted, the complaint merely alleges that Loeb, Rhoades, among others, executed purchases and sales of the stock of Canadian Javelin on behalf of plaintiff. Surely, it is neither improper nor illegal for a broker to buy or sell securities at the request of its customer or at the instruction of an introducing broker. Since this is the extent of the allegations of the complaint,

I respectfully suggest that the action must be dismissed with respect to Loeb, Rhoades.

12. If facts could be alleged which would show a connection between the plaintiff and Samuel Sloan & Co. and further that acts of wrongdoing were committed by Loeb, Rhoades, then, Loeb Rhoades would respond to such allegations. However, as presently drafted, the complaint completely fails to make any such showing. Accordingly, should this Court not grant Loeb, Rhoades' motion to dismiss, then plaintiff should be required to provide a more definite statement of its claim with respect to Loeb, Rhoades.

WHEREFORE, I respectfully request that the complaint be dismissed for failure to state a claim upon which relief can be granted, or, alternatively, that plaintiff be required to serve a more definite statement with respect to its claim against Loeb, Rhoades.

Murray Cwass

MURRAY CWASS

Sworn to before me this
21st day of October, 1973.

Laurence Greenwald

Notary Public

LAURENCE GREENWALD
Notary Public, State of New York
No. 31-1[illegible]
Qualified in New York County
Commission Expires March 30, 1975

FILED
NOV 14
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO. ; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN ; STUART PINKERTON; STANDARD & POOR'S CORP.: BISON PETROLEUM & MINERALS LTD.: PAVONIA, S.A.; JOHN BOUCHARD: CANADA PERMANENT TRUST CO.; MIAMI HERALD: PICKANDS, MATHER & CO.;PETER LA RUSH; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS. & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINEK & DOMINEK INC.; DYER MAGUIRE DRITZ & CO.: EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER & SMITH; F.S. MOSELEY, ESTABROOK; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.;

Defendants.

73 Civil 3801
73 Civil 4403

SUPPLEMENTAL AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, Neil D. Baron, being duly sworn, depose and say:

1. I am an attorney at law and member of the law firm of Booth & Baron, attorneys for Defendant Standard & Poor's Corporation ("Defendant") herein, and I am familiar with the facts and proceedings heretofore had herein and make this supplemental affidavit in support of Defendant's Motion to Dismiss the Complain

2. Plaintiff commenced this action as to Defendant with the service of a Summons and Complaint on September 9, 1973. Shortly thereafter, Plaintiff served a second Summons and Complain under civil action file no. 4403/73, which, according to Plaintiff, was intended to be an amendment to the first Complaint. During argument of Defendant's Motion to Dismiss, all parties served agreed to treat it as such. Subsequently thereto, on November 7,

1973, Plaintiff served an amended Complaint, bearing both civil action no. 3801/73 and 4403/73. Accordingly, for purposes of Defendant's Motion to Dismiss, the three above mentioned Complaints should be considered part of a single action, and Defendant's Motion to Dismiss should be applicable to all three Complaints.

3. On October 23, 1973, Plaintiff served an Affidavit in Opposition to the Defendant's Motion to Dismiss, wherein Plaintiff failed to allege any facts amounting to scienter, intent to defraud, reckless disregard for the truth, or knowing use of a device, scheme or artifice to defraud. Instead Plaintiff stated the following at p. 2:

> "...It is hard to believe that it is an accident that Standard & Poor's Corp. publishes earning information on more than 3,000 other companies accurately, and just happens to report information on this one company [Canadian Javelin] inaccurately. It is more compelling to believe that somebody in Standard & Poor's Corp. is being paid off to publish the wrong information."

The above quote is devoid of any allegation of fact. It merely advances speculation on the part of Plaintiff. Clearly, it is insufficient to allege the basis for a claim under the Federal Securities Laws.

In the same Affidavit, Plaintiff fails to allege a purchase or sale of a security. Plaintiff further alleges that he was a subscriber to one of Defendant's publications. It is true that Defendant subscribed to the Security Dealers of North America. However, that publication is a trade directory merely listing names, telephone numbers and addresses and does not contain an iota of investment advisory information. Canadian Javelin Ltd. has never been mentioned in the Securities Dealers of North America. Plaintiff

has stated to me that the publication he complains of is Standard & Poor's Stock Guide. Plaintiff does not allege that he either subscribed to or purchased the Stock Guide from Defendant.

4. Plaintiff's second Complaint was identical to the first Complaint with respect to its allegations as to Defendant.

5. Plaintiff's third Complaint indicates that this action is being brought under sections 9(a), 10(b) and 18(a) of the Securities Exchange Act of 1934; under sections 5, 12, 15 and 17 of the Securities Act of 1933; under rules of the American Stock Exchange and the NASD; and under Common Law Fraud, the Law of Contracts and other principals of Common Law with respect to the Securites and Exchange Act of 1934:

Section 9(a) prohibits manipulation. Nowhere is there an allegation of any fact remotely suggesting that Defendant manipulated securities. Plaintiff has not even alleged that Defendant bought or sold Canadian Javelin stock.

Section 10(b) prohibits fraud in connection with the purchase and sale of a security. Defendant has met this point in its Legal Brief in support of its Motion to Dismiss.

Section 18(a) deals with false statements made in filings pursuant to the Securities Exchange Act of 1934. Nowhere has Plaintiff alleged that Defendant filed or furnished information for any filings pursuant to said act.

With respect to the Securities Act of 1933:

Section 5 prohibits offers and sales with respect to

which securities for which a registration statement is not effective or has not been filed.

Section 12 prescribes liability in the event of a violation of section 5 or in the event of selling securities by any untrue or misleading statement. Nowhere does Plaintiff allege that Defendant offered to buy or sell or bought or sold such securities.

Section 15 deals with liabilities of controlling persons. Nowhere has Plaintiff alleged that Defendant is a controlling person.

Section 17 deals with fraud in the offer or sale of any securities. Nowhere has Plaintiff alleged that Defendant offered or sold any securities.

With respect to Plaintiff's allegations of violations of rules of the American Stock Exchange and the NASD.

These certainly could not apply to Defendant in as much as Defendant is not alleged to have been a Broker or Dealer or a member of either organization.

Plaintiff has not alleged any facts amounting to a contractual relationship with respect to the publication involved in this litigation.

Plaintiff further alleges in its third Complaint, at p. 2, that Defendant and eleven other defendants

"...all acted in concert with defendant Javelin as part of a scheme to defraud. Defendant Doyle masterminded

this scheme... He obtained the cooperation of the other above named defendants by contacting them directly or through his or their agents. He has maintained contacts with all of the above named defendants other than defendants Standard & Poor's Corp.,...over a period of many years and their help has enabled him to consummate numerous securities frauds..." [emphasis added]

By these words, Plaintiff admits that Defendant did not [illegible] initiate fraud and that Defendant did not help or enable any party to carry out a fraud. Plaintiff has specifically excluded Defendant from its allegations of facts which might amount to fraud.

6. Other than the foregoing, Plaintiff has made no new allegations as to Defendant. It is interesting to note that Plaintiff has changed his complaint to allege knowledge on the part of other defendants but not on the part of Defendant.

7. In summary, the three Complaints and Plaintiff's Affidavit in Opposition are inadequate to state a claim against Defendant, upon which relief can be granted

NEIL D. BARON

Sworn to before me this 13th
day of November, 1973.

Marianne Tirelli

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

Plaintiff, :

-against- : 73 Civ. 4403 (PBB)

CANADIAN JAVELIN LTD., et al., : ANSWER

Defendants. :

- x

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
NOV 15 2 55 PM '73

ANSWER OF DEFENDANT
THE MIAMI HERALD

Defendant The Miami Herald, by its attorneys, Sullivan & Cromwell, for its answer to the complaint:

1. Denies the averments of paragraphs 1 and 2 of the complaint, except admits that plaintiff seeks to base the jurisdiction of this Court upon the statutory provisions referred to therein.

2. Denies knowledge or information sufficient to form a belief with respect to the averments of paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the complaint, except admits that on July 17, 1973, defendant published a newspaper article in The Miami Herald which discussed news developments in Panama, but denies, as alleged in paragraph 14 of the complaint, that the article was "outrageously fraudulent and obviously designed to promote the price of Javelin shares" and respectfully refers the Court to said article for a true and complete statement of its contents.

AS AND FOR A FIRST SEPARATE AND COMPLETE DEFENSE TO THE ACTION

3. The complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND SEPARATE AND COMPLETE DEFENSE TO THE ACTION

4. Plaintiff's claim, if any, is barred by the applicable statute of limitations.

AS AND FOR A THIRD SEPARATE AND COMPLETE DEFENSE TO THE ACTION

5. This Court lacks jurisdiction over the person of defendant.

AS AND FOR A FOURTH SEPARATE AND COMPLETE DEFENSE TO THE ACTION

6. The complaint must be dismissed because of insufficiency of process on the defendant.

AS AND FOR A FIFTH SEPARATE AND COMPLETE DEFENSE TO THE ACTION

7. The complaint must be dismissed because of insufficiency of service of process on the defendant.

AS AND FOR A SIXTH SEPARATE AND COMPLETE DEFENSE TO THE ACTION

8. The statements contained in defendant's newspaper article are protected from plaintiff's action by the First Amendment to the Constitution of the United States.

WHEREFORE, defendant The Miami Herald demands judgment dismissing the complaint and awarding it its costs and disbursements of this action.

Dated: New York, New York
November 15, 1973.

SULLIVAN & CROMWELL

By _____
(A Member of the Firm)

48 Wall Street,
New York, New York 10005.
(212) 952-8100

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,
Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN; STUART PINKERTON; STANDARD & POORS CORP.; BISON PETROLEUM & MINERALS LTD.; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; MIAMI HERALD; PICKANDS, MATHER & CO.; PETER LA RUSH; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS. & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINEK & DOMINEK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER, & SMITH; F.S. MOSELEY, ESTABROOK; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.;

Defendants.

73 Civil 3801 DBB
73 Civil 4403

ANSWER TO AMENDED COMPLAINT

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
NOV 26 2 44 PM '73

The defendant, DOW JONES & COMPANY, INC. ("DOW JONES") by its attorneys, Patterson, Belknap & Webb, for its answer to the amended complaint herein:

1. Denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered 1-3, 6, 9-19, 24, 29 and 31-41 of the amended complaint.

2. Denies the allegations contained in paragraph 4 that Dow Jones acted in concert with defendant Javelin and that Dow Jones participated or acted in any way as part of any scheme to defraud. In all other respects denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the

amended complaint.

3. Denies the allegations contained in the first sentence of paragraph 5 insofar as they relate to Dow Jones. Admits that articles concerning Javelin and Doyle have appeared in Barron's and The Wall Street Journal but denies that the practices of Javelin or Doyle have been characterized by said publications as "fraudulent". In all other respects denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the amended complaint.

4. Denies each and every allegation contained in paragraphs 7 and 8 of the amended complaint except admits that Dow Jones publishes The Wall Street Journal and the Dow Jones News Service.

5. Denies each and every allegation contained in the last sentence of paragraph 20 of the amended complaint. Admits that Dow Jones' publications did not carry a story with respect to the alleged press conference referred to in paragraph 20. In all other respects denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the amended complaint.

6. Denies each and every allegation contained in paragraph 21 of the amended complaint except admits that on June 25, 1973 the Dow Jones News Service carried an item with respect to Javelin.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the amended complaint except admits that on

or about July 5, 1973 the Dow Jones News Service carried the information referred to in the first sentence of said paragraph 22.

8. Denies the allegations contained in paragraph 23 of the amended complaint insofar as they refer to Dow Jones and Pinkerton except admits that Pinkerton received a telephone call from plaintiff on July 5, 1973. In all other respects denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the amended complaint.

9. Denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 25 of the amended complaint except admits that Tom Mitchell was telephoned by plaintiff. Denies each and every other allegation contained in said paragraph 25 except admits that Mitchell promised to and did investigate the questions raised by plaintiff.

10. Denies each and every allegation contained in paragraph 26 of the amended complaint except admits that Thomas received a telephone call from plaintiff.

11. Denies each and every allegation contained in paragraph 27 of the amended complaint except admits and alleges that plaintiff telephoned Mitchell and was informed by Mitchell that the investigation had been referred to Pinkerton in the Montreal offices of Dow Jones.

12. With regard to paragraph 28, admits and alleges that plaintiff visited the Montreal offices of Dow Jones on Sunday, July 8, 1973, and spoke to Cameron. Further admits

and alleges that as a result of plaintiff's harassment and annoyance of Dow Jones' staff reporters including the solicitation of information from them, plaintiff was advised to refrain from such contact with staff reporters in the future and to refer all Javelin information to Pinkerton. Further admits that plaintiff threatened to take legal action if Dow Jones did not "retract" and that Dow Jones stated its intention to and did continue its investigation in order to uncover all of the facts. Further admits that The Wall Street Journal printed articles on or about October 25 and October 30, 1973, further clarifying the facts surrounding Javelin mining concessions in Panama. In all other respects denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the amended complaint.

13. Admits the allegations contained in paragraph 30 of the amended complaint.

FIRST DEFENSE

The amended complaint fails to state a claim against Dow Jones upon which relief can be granted in that plaintiff has failed to set forth the elements necessary to constitute a claim under: Rule 10(b)5 and Sections 9(a), 10(b) and 18(a) of the Securities Exchange Act of 1934; Sections 5, 12, 15 and 17 of the Securities Act of 1933; the rules of the American Stock Exchange; the rules of the NASD; common law fraud; and the law of contracts.

SECOND DEFENSE

The Court lacks jurisdiction over the subject matter of this action because it appears from the face of the complaint

that the action does not arise under the Constitution, laws or treaties of the United States.

THIRD DEFENSE

The granting of relief to the plaintiff as against Dow Jones would constitute an abridgment of rights guaranteed to defendant Dow Jones by the First and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, the defendant, Dow Jones & Company, Inc. requests judgment dismissing the complaint as to it, together with costs and disbursements of this action.

Dated: New York, New York
November 19, 1973

PATTERSON, BELKNAP & WEBB

Attorneys for Defendant
Dow Jones & Company, Inc.

Robert Stack
Member of Firm

Office and P.O. Address
One Wall Street
New York, New York 10005
212 WHitehall 3-1300

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

73 Civ. 4403 (DDB)

Plaintiff, :

-against- : AFFIDAVIT

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

LAURENCE GREENWALD, being duly sworn, deposes and says:

1. I am associated with the firm of Stroock & Stroock & Lavan, attorneys for defendant Loeb, Rhoades & Co. (Loeb, Rhoades) and submit this affidavit in further support of a motion made by that defendant to dismiss the complaint in the above-entitled action for failure to state a claim upon which relief can be granted, or, in the alternative, requiring the plaintiff to serve a more definite statement.

INITIAL HEARING ON THE MOTION

2. The motion was originally returnable on November 12, 1973. At the request of plaintiff, the return date was adjourned to November 19, 1973. At the adjourned date, Judge Bonsal heard argument and granted plaintiff an additional period of 20 days in which to file an amended complaint which would

comply with the Federal Rules of Civil Procedure, failing which the complaint would be dismissed without prejudice.

THE AMENDED COMPLAINT

3. Attached hereto as Exhibit A is a copy of a proposed amended complaint which has been served by plaintiff. I respectfully submit that a review of the proposed amended complaint leads to the inescapable conclusion that it also fails to state a cause of action with respect to Loeb, Rhoades. Furthermore, the allegations respecting fraudulent conduct on the part of Loeb, Rhoades are not stated with the necessary specificity required by the Federal Rules. Finally, as will be fully demonstrated in the supplemental affidavit of Murray Cwass, the new allegations contained in the complaint with respect to Loeb, Rhoades are completely lacking in any factual support. Apparently, plaintiff, recognizing that his complaint would be struck, has now determined to say anything in order to stay in Court.

4. The proposed amended complaint makes reference to Loeb, Rhoades in only two paragraphs. These are paragraphs 19 and 35 (there are two paragraphs 35 contained in the complaint and the reference to Loeb, Rhoades is contained in the first of those paragraphs which commences on page 13). For the Court's convenience, the two paragraphs in question are set out in full below.

"19. Defendant Dyer is the specialist in Javelin on the Amex. Dyer is responsible for buying and selling Javelin and controlling the market in Javelin shares. It has the obligation to inform Amex officials if Javelin appears to be the subject of a market manipulation. During the months of July, August and September, 1973 when Javelin was the subject of a market manipulation, Dyer ignored this obligation. Defendants Bouchard & Co., Timmins, Loeb, Rhoades & Co. ("Loeb") and Dyer have been consistent buyers of Javelin and aided in the market manipulation of Javelin shares. On many days Timmins alone accounted for more than half the Javelin shares traded. The sixteen stock brokerage firms named as defendants to this action accepted buy and sell orders from defendant or were involved in the trading of Javelin shares or in the purchase, sales, and borrowings of Javelin shares which led to the damages suffered by plaintiff.

"35. Subsequently, either Steven Gerand or other officers of the Amex contacted officers or employees of defendants Chartered New England Corp., Dominek & Dominek, Inc., Edwards & Hanly ("Edwards"), Loeb, F.S. Moseley, Estabrook, Muller & Co., Wood, Walker & Co. and perhaps other members of Amex including other defendants to this action. Said officer of Amex instructed all of these defendants to cancel all sell orders and contractual commitments they might have with plaintiff on the ground that these sell orders and contractual commitments violated the rules of the Amex. Said Amex officers also contacted defendants Loeb, Timmins, and Dyer, who were the ultimate buyers of most of the Javelin shares that were sold and urged them to cancel all buy-ins in Javelin. As a result, all sell and buy orders and contractual commitments of plaintiff to sell and deliver Javelin shares to Amex members were cancelled unilaterally by said members."

5. With respect to the allegations contained in paragraph 19, the only portion thereof which relates to Loeb, Rhoades is the contention that Loeb, Rhoades had been a consistent buyer of Javelin stock and aided in the market manipulation of Javelin shares. As is fully shown by the Cwass supplemental affidavit annexed hereto as Exhibit B, Loeb, Rhoades has, for the most part, only purchased Javelin stock

when it has been acting as a clearing broker on a disclosed basis. Mr. Cwass has in his original affidavit outlined for the Court the functions of a clearing broker. Basically, a clearing broker is an agent for another broker and merely performs the ministerial activities of back office work. A clearing broker has no responsibility as to the selection of securities which will be purchased for customers. Furthermore, Mr. Cwass has indicated that Loeb, Rhoades has never recommended Canadian Javelin to any of its own customers, and, in fact, has a policy against the recommendation of Canadian secu ties, including Canadian Javelin.

6. I should also point out that even if Loeb, Rhoades had been a consistent buyer of Canadian Javelin stock, that alone would not constitute a market manipulation or fraudulent activity which would be in violation of the Securities laws.

7. The allegations contained in paragraph 35 which relate to Loeb, Rhoades would indicate that Loeb, Rhoades was instructed by the American Stock Exchange to "cancel and sell orders and contractual commitments they might have with plaintiff on the grounds that these sell orders and contractual commitments violated the rules of the Amex." Plaintiff completely fails to explain how the following of instructions

from a regulatory authority, such as the American Stock Exchange, would violate the securities laws or provide the basis for a securities fraud. However, in any event, as had been previously shown in the original Cwass affidavit, the only transaction which Loeb, Rhoades had involving a Sloan entity related to a sale by Sloan of Canadian Javelin, which stock Sloan later failed to deliver. It then became necessary for Loeb, Rhoades to purchase the stock in the market and make delivery to Sloan's purchaser. This buy-in was dictated by the Federal Securities laws. The Cwass affidavit also indicates that Loeb, Rhoades was never contacted by the Amex specifically with respect to Mr. Sloan and the allegation contained in the complaint has no factual support.

CONCLUSION

For the reasons stated herein, and in the original and supplemental affidavits of Mr. Cwass, I respectfully submit that this Court should forthwith dismiss the complaint as it relates to Loeb, Rhoades.

Laurence Greenwald

LAURENCE GREENWALD

Sworn to before me this

14th day of December, 1973.

Nettie Rothstein

Notary Public

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN; STUART PINKERTON; STANDARD & POORS CORP.; BISON PETROLEUM & MINERALS LTD.; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; MIAMI HERALD; PICKANDS, MATHER & CO.;. PETER LA RUSH; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS. & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINEK & DOMINEK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER, & SMITH; F.S. MOSELEY, ESTABROOK; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.;

Defendants.

73 Civil 3801
73 Civil 4403
PROPOSED
AMENDED COMPLAINT

State of New York)
: ss.:
County of New York)

Samuel H. Sloan, being duly sworn, deposes and says:

1. Jurisdiction of this court arises under Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. 78aa and the principles of pendent jurisdiction.

2. This action is brought under Rule 10(b)-5 and other rules of the Securities & Exchange Commission, under Sections 9(a), 10(b), and 18(a) of the Securities Exchange Act of 1934, under sections 5, 12, 15, and 17 of the Securities Act of 1933, under other securities laws, under the rules of the American Stock Exchange and the NASD, and under common law fraud, the law of contracts, and other principles of common law.

3. Canadian Javelin Ltd. ("Javelin") is a publicly owned Dominion corporation whose shares are listed and traded

4. During the period of January to September 1973 directly and through its officers and employees, Javelin engaged in a wide variety of fraudulent means to cause a rise in the price of its stock. This recent fraud was an extention of a fraud which has spanned many years. Defendants American Stock Exchange ("AMEX"), Dow Jones & Co., John C. Doyle ("Doyle"), William M. Wismer ("Wismer"), Lee & Martin, Stuart Pinkerton ("Pinkerton"), Standard & Poors Corp., Bison Petroleum & Minerals Ltd. ("Bison"), Pavonia S.A. ("Pavonia"), John Bouchard, Canada Permanent Trust Co. ("Trust"), Miami Herald, Pickands, Mather & Co. Wright Engineers Ltd., Bouchard & Co., Burns Bros. & Timmins, Inc. ("Timmins"), and Dyer Maguire, Dritz & Co. ("Dyer") all acted in concert with defendant Javelin as part of a scheme to defraud. Defendant Doyle masterminded this scheme as he has masterminded many similar schemes in the past. He obtained the cooperation of the other above named defendants by contacting them directly or through his or their agents. He has maintained contacts with all of the above named defendants other than defendants Standard & Poors, Corp., Miami Herald, and Pickands, Mather & Co. over a period of many years and their help has enabled him to consummate numerous securities frauds involving Javelin, Bison, Dominican Jubilee, and the other publicly held corporations he controls.

5. The long history of fraud involving Javelin is well known to all of the defendants to this action.. Javelin was suspended from trading by the S.E.C. from March 17, 1971 to April 5, 1971 and from March 7, 1972 to August 9, 1972.

These suspensions occurred because of fraudulent and misleading statements made by officers of Javelin and because of the unavailability of adequate financial information concerning them of the possible consequences of trading in Javelin shares. The history of Javelin goes back to the early 1950's when defendant Doyle used to offer brokers cash payoffs to enter orders for Javelin shares. Some of the brokers named as defendants to this action or their officers, partners, or employees were either offered such payoffs by Doyle or knew that payoffs were being offered by Doyle to other brokers. The S.E.C. obtained an injunction against Doyle in 1958. Subsequently, when Doyle violated the terms of this injunction and committed various criminal acts he fled the country rather than serve a prison sentence. The most recent proxy statement of Javelin states:

> "A United States grand jury indictment was made public on August 7, 1963, charging violations of the Securities Act of 1933, against John C. Doyle, then Chairman of the Board and President, and three others. On February 4, 1965, Mr. Doyle withdrew his previous plea of not guilty to the indictment, and pleaded guilty to one count of the indictment which charged that he sent fifty shares of the stock of the Company through the mails for sale or delivery after sale without such stock having been registered with the Securities and Exchange Commission pursuant to the Securities Act of 1933. On May 3, 1965, Mr. Doyle was sentenced to pay a fine of $5,000 and to a sentence of three years, all but three months of which was suspended, with probation for one year. All other counts of the indictment were dismissed. The Company was not indicted. Following the unsuccessful appeal of Mr. Doyle's sentence, Mr. Doyle was to have appeared to commence

> serving the three-month sentence on July 15, 1965. He did not appear on that date and currently is considered to have illegally absented himself from the jurisdiction of the United States under the laws of the United States."

The fraudulent practices of defendants Javelin and Doyle have been the subject of numerous books, and magazine and newspaper articles, including articles in Barron's and the Wall Street Journal.

6. Defendant Amex has given its official sanction to these

* * * * * * * * * *

the distribution of unregistered shares of Javelin to the public by permitting Javelin to trade even though Javelin shares have never been registered under the Securities Act of 1933. It has allowed additional unregistered Javelin shares to be sold on the market by defendant Trust as a result of a 3% stock dividend declared by Javelin in 1971 and again in 1972. Plaintiff was told by defendant Wismer on the telephone that Javelin retains its listing on the AMEX because most Javelin shareholders hold their stock on margin with AMEX members and if Javelin were delisted these shares could no longer be held in margin accounts and the price of Javelin would fall. As a result of this assertion by defendant Wismer, plaintiff alleges this to be the case upon information and belief.

7. Defendant Dow Jones & Co. which operates both the Wall Street Journal and the Dow Jones News Service has knowingly printed numerous false, misleading, and untrue press releases about Javelin and has refused to print reliable but adverse information about Javelin.

8. Defendant Stuart Pinkerton who is the Montreal Branch Chief for Dow Jones & Co. and who has authority over and responsibility for all reports and stories about Javelin by Dow Jones & Co. has authorized these fraudulent practices.

9. Defendant John C. Doyle is the Chairman of the Board of Javelin and defendant William M. Wismer is the President of Javelin. They have disseminated false and misleading news releases to Dow Jones & Co. directly and through Javelin subsidiaries Bison Petroleum & Minerals Ltd. and Pavonia, S.A. These newsreleases have also gone to other representatives of the news media and to Javelin shareholders.

10. In early January, 1973 Javelin was selling for 5 7/8.

its subsidiaries Javelin has acquired mineral concessions for a total of 600,000 acres of land in Panama; that copper, gold, and silver deposits are to be found on these properties; that Javelin subsidiaries have the right to exploit and extract the copper and other minerals found on these properties; in that Javelin has discovered the largest proven copper reserves in the world on these properties; that Javelin has delineated an area of 2.2 billion tons of copper bearing minerals inthe Cerro Colorado area of Panama; that said copper mineralization is of a commercial grade; that preliminary reports show that a copper mine is commercially feasible; that Wright Engineers Ltd. is preparing a feasibility study

based on a production capacity of 80,000 metric tons of copper ore per day; that a copper concentrator and smelter is going to be built at the drilling site; that Javelin has entered into financing agreements with British interests to provide the $500 million financing necessary for the project; that defendant Doyle and Peter La Rush, a Javelin geologist, and Vice President of Pavonia, have entered into negotiations with Brig. Gen. Omar Torrejos concerning the development of the properties; and that Javelin planned to start construction of production facilities within a month. All of these statements and the numerous other statements and press releases issued by Javelin and its officers and subsidiaries were false, misleading, untrue, and deceptive. What is in fact the case is: 1) that the copper bearing properties in question were discovered by a U.N. Development team a number of years ago and have never been proven to be of commercial significance; 2) that Javelin has been granted the right to explore the area and drill for copper only under close governmental supervision; 3) that the Government of Panama has not granted Javelin the right to holes are spaced at such wide intervals that from a geological point of view no significance could be attached to the drilling results Javelin has obtained thus far; 5) that the early drill holes failed to show acceptable gradations of copper and Javelin has obtained better results only by drilling holes deeper than a commercial mine could be expected to reach;

6) that due to Mr. Doyle's poor reputation in Panama and to other factors including economic and political considerations it is unlikely that Panama will ever grant Javelin or its subsidiaries the right to mine copper and if it did so the Government of Panama would be in a position to dictate the terms of the contract in such a way as to preclude Javelin from ever making a profit on the project and 7) even if Javelin were to get the exploitation contract it seeks it is unlikely that it could obtain the $500 million necessary to finance the project or that Javelin would ever be able to open a copper mine in Panama.

11. Defendant Lee & Martin has utilized dubious accounting methods to contrive financial statements of Javelin which do not accurately reflect the financial position of Javelin and which appear to be false and misleading on their face.

12. Javelin has filed fraudulent 10-K, 10-Q, and 8-K reports with the S.E.C. which plaintiff has purchased and read and upon which he has relied.

13. Defendant Standard & Poors Corp. has disseminated to the public and to other financial services false and contrived information about Javelin. For the twelve months ending March 31, 1973 Standard & Poors reports a profit of 3¢ per share whereas in reality Javelin reported a substantial loss.

14. Defendant Miami Herald has published at least one

15. Defendant Canada Permanent Trust Co. is the transfer agent for Javelin and made an unregistered distribution of Javelin shares in 1971 and again in 1972 as a result of a stock dividend. It did so by taking a 10% "witholding tax" on the 3% stock dividend and selling the shares in the market in order to satisfy a tax liability of Javelin. The S.E.C. denied Javelin a no action letter on this issue and said denial was ignored by defendants Javelin and Trust (C.C.H. Fed. Sec. C. Rep. ('71-'72 transfer binder #78,337)).

16. Defendant John Bouchard has acted in concert with defendants Doyle and Wismer to promote the price of Javelin shares and has caused Bouchard & Co. to make a firm recommendation of Javelin.

17. Defendant Pickands, Mather & Co. is the sole source of income for Javelin. It has participated in a scheme to defraud both creditors and shareholders of Javelin by the irregular method by which it makes royalty payments to Javelin. Pickands frequently does not make royalty payments directly to Javelin but instead makes such payments to creditors or other individuals and legal entities as directed by Javelin and its officers.

18. Defendant Wright Engineers Ltd. is a Vancouver mining consulting firm. It has participated in a scheme to defraud by the issuance of favorable feasibility reports to the public and the failure to issue unfavorable feasibility reports and other information about the exploration concession Javelin has in Panama and by providing credence for the fraudulent statements of Javelin.

19. Defendant Dyer is the specialist in Javelin on the Amex. Dyer is responsible for buying and selling Javelin and controlling the market in Javelin shares. It has the obligation

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and September, 1973 when Javelin was the subject of a market manipulation, Dyer ignored this obligation. Defendants Bouchard & Co., Timmins, Loeb, Rhoades & Co. ("Loeb") and Dyer have been consistent buyers of Javelin and aided in the market manipulation of Javelin shares. On many days Timmins alone accounted for more than half the Javelin shares traded. The sixteen stock brokerage firms named as defendants to this action accepted buy and sell orders from defendant or were involved in the trading of Javelin shares or in the purchase, sales, and borrowings of Javelin shares which led to the damages suffered by plaintiff.

20. On or about June 20, 1973 Fernando Manfredo, Minister of Commerce and Industry of Panama stated in a press conference that the Government of Panama had cut off negotiations with Javelin until Panama completed the drafting of a new mining code. This press conference was reported widely in Panama and carried on the United Press International news wires dated June 20, 1973. It was reported in a Montreal newspaper the following morning. However, this story was not carried in any Dow Jones & Co. publication or in any other American

newspaper known to plaintiff. Plaintiff was told of the U.P.I. story by Nick Thomas of Dow Jones & Co. in Montreal and later plaintiff obtained the original release from U.P.I. in New York.

21. On the morning of June 21, 1973 an officer of Javelin called Steven Gerard of the Amex. Gerard is the officer of the Amex who is responsible for supervising any affairs involving Javelin. Javelin requested that the Amex halt trading in Javelin shares because of the unfavorable news release. On that date plaintiff held a substantial short position in Javelin. He had entered purchase orders with

short position. However, because Javelin was halted from trading on that day and the days immediately following, plaintiff was prevented from covering his short. Thereafter, Javelin issued a news release to counter the previous unfavorable story in the Montreal newspaper. Dow Jones & Co. printed this news release without making any reference to the previous U.P.I. news release. Most Javelin shareholders never learned why trading was halted in Javelin shares on June 2[illegible] Javelin opened at a price of 7 and started to rise immediately thereafter Plaintiff purchased some shares through Wood, Walker, & Co. and Edwards & Hanly but could not buy enough to cover his short position.

22. On July 5, 1973 the Dow Jones News Wire carried a story that Bison Petroleum & Minerals Ltd., a 61% owned subsidiary of Javelin, had acquired a 200,000 acre mineral concession in Panama. When plaintiff heard of this story he placed a call to the Republic of Panama. Plaintiff reached Fernando Manfredo on the telephone at about 5:30 P.M. that day. He read the story on the Dow Jones wire to Manfredo. Manfredo told plaintiff that the story was not true because I) Panama does not sell mineral concessions but grants concessions and these concessions are non-transferable and non-assignable; II) The Government of Panama had dealt only with Pavonia, S.A.,,a Panamanian Corporation, and had never heard of Bison; III) Panama had cut off all negotiations with Pavonia and Javelin; and IV) Panama was not granting any new mineral concessions until its new mining code was drawn up which would take at least a month.

23. Within fifteen minutes after he spoke to Manfredo, plaintiff called Stuart Pinkerton of Dow Jones & Co. in Montreal and told him what Manfredo had said. He informed Pinkerton

Plaintiff also placed calls to Larry Grimes of the S.E.C. in Washington, D.C. and Steven Gerard of the American Stock Exchange. He informed them of this matter as soon as he could reach them. Grimes is in charge of handling all matters at the S.E.C. with respect to Javelin. Plaintiff knew these

individuals because he spoke to them on many occasions about Javelin prior to that time. He has also spoken to them several times since.

24. Plaintiff made these calls because at that time he was a short seller of Javelin and he was afraid that the release of false news information about Javelin might cause a rise in price and result in a great financial loss to plaintiff. Also, in accordance with the S.E.C. rules on insider information, plaintiff had an obligation to inform the S.E.C., the Amex, and the appropriate news media in that order of any information, favorable or unfavorable which he might have on a company. Furthermore, plaintiff was a trader in Javelin. Under the S.E.C. rules he was required to use due diligence to find out all he could about the companies in which he traded. As a market maker he had a further obligation under certain conditions to effect stabilizing transactions.

25. Because he was unsatisfied with the response he got from Stuart Pinkerton, plaintiff called Tom Mitchell of Dow Jones & Co. in New York the next morning. On that day a false article appeared in the Wall Street Journal which made the same untrue statements as had appeared on the Dow Jones News Wire the previous day. Mitchell said to plaintiff, "Everyone knows that Javelin lies." He promised he would look into the matter.

26. The resulting inquiry from their New York office

week plaintiff spoke to Nick Thomas of Dow Jones & Co. in Montreal on the telephone. Thomas told plaintiff that they had spoken to both Manfredo and Doyle on the telephone over the previous weekend and that Manfredo had told Thomas exactly what Manfredo had told plaintiff as described in paragraph 26. Thomas said that Dow Jones & Co. was about to publish an article concerning these events. That article never appeared. However a few days later, Dow Jones and Co. did publish an article reporting a telephone interview with defendant John C. Doyle which further created a false and misleading impression with the public.

27. Subsequently, plaintiff called Mitchell to learn the results of his inquiry. Mitchell said that he had referred plaintiff's complaint to Stuart Pinkerton. Mitchell told plaintiff that Pinkerton had said that he had checked it out with government officials in Panama and found the story to be true. Plaintiff told Mitchell that the Montreal office had told plaintiff exactly the opposite. Mitchell refused to look into the matter any further and told plaintiff that if he had any more questions, he should call Pinkerton directly.

28. On a subsequent weekend plaintiff went to Montreal to visit the offices of Dow Jones & Co. He spoke to Bob Cameron there. The following Monday he received a telephone call from Stuart Pinkerton. Pinkerton told plaintiff not to talk to his staff reporters any more. He said that if plaintiff had a legitimate news item about Javelin he should call Pinkerton. Plaintiff objected on the ground that Dow Jones &

Co. was making a practice of publishing false news information about Javelin and plaintiff felt he had a duty to protect himself and inform them of that fact. Plaintiff also wrote Dow Jones & Co. a letter advising them he would consider taking legal

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publications. In their reply, Dow Jones & Co. denied that those news releases were false. Dow Jones & Co. maintained this position until October 25, 1973 when it admitted in the Wall Street Journal in articles printed on October 25, 1973 and October 30, 1973 that the previous articles published were untrue.

29. Under normal conditions Javelin only traded a few thousand shares a day. However, after the July 5 news release it began a sudden and swift rise in price. Javelin averaged more than 50,000 shares per day and usually was at or near the top of the most active list on the Amex. On many days the volumeof Javelin in Montreal exceeded the volume on the Amex. On July 26, 1973 Javelin reached the price of 14 5/8. Plaintiff was experiencing a servere financial setback. Accordingly plaintiff decided to go to Panama the next day inorder to see the copper drilling site in the Cerro Colorado area.

30. Late in the afternoon of July 26 plaintiff received a telephone call from Barry Newman, staff reporter of the Wall Street Journal. Newman told plaintiff he had gotten plaintiff's name from the Montreal office of Dow Jones & Co. He asked plantiff various questions.

31. On the morning of Friday, July 27 plaintiff arrived in the Republic of Panama. He went to see the Department of Mineral Resources in Panama and spoke to Jaime Roquebert, the Deputy Director of Mining Resources. Mr. Roquebert had a large three-dimensional scale model of the Javelin drilling project in his office. Mr. Roquebert introduced plaintiff to Dr. Quiros, the Director of Mining Resources. Altogether, plaintiff spoke to Mr. Roquebert and Dr. Quiros for about two hours. After these conversations plaintiff went to the headquarters of Javelin International, S.A. at 33 Avenida Frederico Boyd.

to visit the Cerro Colorado drilling site. Mr. La Rush made arrangements for plaintiff to make the trip. Plaintiff took a room at the Hotel El Panama, formerly the El Panama Hilton, of which Mr. Doyle owns a controlling interest. He met Mr. Doyle in the lobby of the Hotel and told Mr. Doyle he would be visiting the drilling site the next morning.

32. On the morning of July 28, plaintiff took a commercial flight to David, R.P. and flew to the Cerro Colorado drilling site on a supply airplane chartered by Javelin. He climbed around the Andes Mountains looking at drill holes and core samples all day. He talked to the geologists at the drilling camp and spent the night there. Early the next morning he was flown out of the drilling camp and was back in the U.S. the same evening.

34. The next day Steven Gerand asked plaintiff how he liked his trip to Panama. Plaintiff had not told anybody that he had been to Panama the previous weekend. The same day

defendant Wismer wrote plaintiff a letter on Javelin stationary stating that Javelin would hold plaintiff liable for anything he said about the drilling project.

35. Subsequently, either Steven Gerand or other officers of the Amex contacted officers or employees of defendants Chartered New England Corp., Dominek & Dominek, Inc., Edwards & Hanly ("Edwards"), Loeb, F.S. Moseley, Estabrook, Muller & Co., Wood, Walker & Co. and perhaps other members of Amex including other defendants to this action. Said officer of Amex instructed all of these defendants to cancel all sell commitments violated the rules of the Amex. Said Amex officers also contacted defendants Loeb, Timmins, and Dyer, who were the ultimate buyers of most of the Javelin shares that were sold and urged them to cancel all buy-ins in Javelin. As a result, all sell and buy orders and contractual commitments of plaintiff to sell and deliver Javelin shares to Amex members were cancelled unilaterally by said Amex members.

35. After these trades were cancelled, certain brokers contacted plaintiff and demanded that plaintiff pay the difference between the contract price and the market price of Javelin shares. Some brokers harassed and coerced plaintiff or resorted to fraud and larceny in order to obtain property of plaintiff.

36. Ed Muller and Marvin Weiselberg, partners of defendant Muller & Co., alternated visits and telephone calls to the office of plaintiff and did various things to coerce plaintiff to turn over property to them. Finally, when Ed Muller and his son stayed in plaintiff's office for more than an hour and a half and refused to leave the office, plaintiff was forced to call the New York City Police in order to have them forcibly removed. An officer of Chartered New England Corp. was present when it was necessary for him to call the police on Muller.

37. On August 15 plaintiff obtained 1000 shares of Canadian Javelin. He chose to deliver this 1000 shares to defendant Edwards & Hanly because Edwards was the only broker who had not contacted him concerning the matter. He called the office of Bob Della, chashier at Edwards, to request that plaintiff be allowed to deliver the 1000 shares of Canadian Javelin Ltd. against immediate payment of about $13,000 in accordance

industry. A clerk who worked for Mr. Della agreed to accept the delivery and to pay the agreed upon sum upon delivery. Accordingly, plaintiff personally delivered these shares to the offices of Edwards. The clerk at the receive window took the shares and told plaintiff it would take about an

hour to prepare the check. While waiting for the check plaintiff returned to his office and there he received a telephone call from Arthur Foote, a managing partner in Edwards & Hanly. Foote told plaintiff that he, Foote, had instructed his cashiers department not to pay plaintiff the money and not to return the shares to plaintiff. Plaintiff demanded that Edwards return the shares to him. This demand was refused.

38. This illegal act by Edwards caused a severe financial crisis to plaintiff. He sought aid from the NASD, the S.E.C., the New York Stock Exchange, the Amex, the New York City Police, the District Attorney, and the U.S. Attorney. All of these agencies referred plaintiff to the courts. Subsequentl plaintiff filed a formal complaint with the NASD in order to obtain recovery of the shares. Edwards responded by commencing an action in the New York State Supreme Court and obtained an order of attachment signed by Judge Vincent A. Lupiano. Edwards then turned over to the Sheriff the shares it had illegally converted from plaintiff in order to satisfy the order of attachment. At the time it turned over the shares Javelin was selling for 18. Plaintiff called the attorneys for Edwards and asked them to at least sell the shares in order to obtain the benefit of the high price of Javelin. However, the shares were never sold.

39. As a result of these events including the actions of defendant Edwards, plaintiff was forced to close his office and go out of business. His last day in business was August 16. On that day he sent a telegraphic message to the S.E.C.

& Hanly. Under the circumstances, it would have been a violati of the S.E.C. Rules for plaintiff to stay in business. His credit rating and the professional reputation he had establishe as a result of three and one half years in the securities busi had been destroyed.

40. Since that time he has been hunted and hounded by officers, employees, agents, and attorneys of the various stock brokerage defendants as well as by the F.B.I. and the S.E.C. Plaintiff paid $14,000 to Wood, Walker & Co., $8,000 in cash and securities to Chartered New England Corp., $10,000 in cash and securities to Muller & Co. and $8300 to Edwards & Hanly for a mark to market on a stock loan, of Javelin in addition to the 1000 shares of Javelin that were illegally siezed by defendant Edwards. Civil actions were commenced in the New York State and City Courts by defendants Pressman, Frohlich & Frost, Inc., Chartered New England Corp., and Weis & Baer, Inc., as well as by Edwards. Other defendants demanded the payment of moneys by plaintiff. The total amount of damages claimed by the various defendants, including the amount actually paid by plaintiff to various defendants, came to $170,000.

41. Plaintiff is entitled to recover damages of $170,000 for trading in Javelin. In addition plaintiff has been damaged to the extent of $2,000,000 for loss of business, loss of credit rating, harassment by the various defendants the F.B.I. and the S.E.C., and by the other events described in this complaint. In addition plaintiff is entitled to punitive

and exemplary damages in the amount of $5,000,000, especially in view of the long and notorious history of securities fraud involving Javelin and other defendants and the likelihood that this fraud will be repeated.

WHEREFORE, plaintiff demands:

I. Judgment in the amount of $2,170,000 actual damages plus $5,000,000 punitive and exemplary damages plus costs and interest.

II. That this action be tried by jury.

[Sgd] Samuel H. Sloan

[Sworn to November 19th, 1973]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,	:	73 Civ. 4403(DDB)
Plaintiff,	:	
-against-	:	SUPPLEMENTAL AFFIDAVIT
CANADIAN JAVELIN LTD., et al.,	:	
Defendants.	:	

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MURRAY CWASS, being duly sworn, deposes and says:

1. I am a Vice-President of Loeb, Rhoades & Co., Inc. and Manager of the Margin Department of Loeb, Rhoades & Co. I make this supplemental affidavit in further support of a motion made by defendant Loeb, Rhoades & Co. (Loeb, Rhoades) for an order dismissing the complaint in the above-entitled action for failure to state a claim upon which relief can be granted, or, in the alternative, requiring the plaintiff to serve a more definite statement. I am fully familiar with the facts set forth herein.

THE PROPOSED AMENDED COMPLAINT

2. I have reviewed the document entitled "Proposed Amended Complaint" which plaintiff is attempting to file in this action. I have noted that in the proposed amended complaint

there are two references to Loeb, Rhoades. These are contained in paragraphs 19 and 35 (there are two paragraphs 35, but the reference to Loeb, Rhoades is contained in the first one).

3. Those paragraphs read as follows:

"19. Defendant Dyer is the specialist in Javelin on the Amex. Dyer is responsible for buying and selling Javelin and controlling the market in Javelin shares. It has the obligation to inform Amex officials if Javelin appears to be the subject of a market manipulation. During the months of July, August and September, 1973 when Javelin was the subject of a market manipulation, Dyer ignored this obligation. Defendants Bouchard & Co., Timmins, Loeb, Rhoades & Co. ("Loeb") and Dyer have been consistent buyers of Javelin and aided in the market manipulation of Javelin shares. On many days Timmins alone accounted for more than half the Javelin shares traded. The sixteen stock brokerage firms named as defendants to this action accepted buy and sell orders from defendant or were involved in the trading of Javelin shares or in the purchase, sales, and borrowings of Javelin shares which led to the damages suffered by plaintiff.

"35. Subsequently, either Steven Gerand or other officers of the Amex contacted officers or employees of defendants Chartered New England Corp., Dominek & Dominek, Inc., Edwards & Hanly ("Edwards"), Loeb, F.S. Moseley, Estabrook, Muller & Co., Wood, Walker & Co. and perhaps other members of Amex including other defendants to this action. Said officer of Amex instructed all of these defendants to cancel all sell orders and contractual commitments they might have with plaintiff on the ground that these sell orders and contractual commitments violated the rules of the Amex. Said Amex officers also contacted defendants Loeb, Timmins, and Dyer, who were the ultimate buyers of most of the Javelin shares that were sold and urged them to cancel all buy-ins in Javelin. As a result, all sell and buy orders and contractual commitments of plaintiffs to sell and deliver Javelin shares to Amex members were cancelled unilaterally by said members."

4. With respect to paragraph 19 and the allegations contained therein, I can give to the Court the following information:

(a) Loeb, Rhoades has never bought or sold any Canadian Javelin stock for its own account;

(b) Loeb, Rhoades has never recommended Canadian Javelin stock to any of its customers, and, in fact, for many years has had a general policy against the recommendation of Canadian stocks and specifically has banned the solicitation of purchases or sales of Canadian Javelin; and,

(c) almost all of the transactions which have been effected through Loeb, Rhoades & Co. involving the purchase or sale of Canadian Javelin were done so for brokers for whom Loeb, Rhoades clears, rather than directly for Loeb, Rhoades' customers.

5. With respect to paragraph 35, I can state that Loeb, Rhoades had various communications with the American Stock Exchange in connection with the Exchange's overall review of trading activity in Canadian Javelin. However, Loeb, Rhoades had no communication with the Exchange regarding instructions to take any action with respect to the plaintiff's account and, furthermore, was never the ultimate purchaser of any shares which were sold by plaintiff. The simple fact is that plaintiff, through its own broker, Pressman, Frohlich & Frost, instructed Loeb, Rhoades to sell 1,000 shares of Canadian Javelin; and, when it came time to deliver the 1,000

shares, plaintiff did not do so and it was necessary for Loeb, Rhoades to go into the market and purchase those shares for delivery. The purchase price was charged back to plaintiff. The buy-in of the securities was effected in strict compliance with and pursuant to the Federal Securities Laws.

Murray Owass

MURRAY OWASS

Sworn to before me this

6th day of December, 1973.

Nettie Rothstein

Notary Public

NETTIE ROTHSTEIN
Notary Public, State of New York
No. 24-3379250
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[illegible] SLOAN,

Plaintiff,

-against-

ANGLO-CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; [illegible]; JOHN C. DOYLE; WILLIAM M. FISHER; LEE & MARTIN; LEE & MARTIN; HEWART PINKERTON; STANDARD & POOR'S CORP.; BISON PETROLEUM & MINERALS LTD.; ROBERT-BENOIT MAJOR; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; THE MIAMI HERALD; PICKANDS, MATHER & CO.; WRIGHT ENGINEERS, LTD.; TECHNICAL ECONOMISTS LTD.; WATTS, GRIFFIS & McOUAT LTD.; JOSEPH R. SHALLWOOD; ANGLO AMERICAN CORP.; PETER JEFFREYS; INSTITUTIONAL SERVICES (DEUTSCHLAND) GmbH; ENGINEERING SERVICES LTD.; OLIVER L. VARDY; A.I.S. RESOURCES LTD.; WORLD MINING; McGRAW-HILL INC.; STEVEN L. GERARD; ARTHUR FOOTE; ROBERT DELLA; RAYMOND ARONSON; BACHE & CO.; BOUCHARD & CO.; BURNS BROS. & TIPHINS, INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINICK & DOMINICK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER & SMITH, INC.; F.S. MOSELEY, ESTABROOK & CO., INC.; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER, INC.; WOOD, WALKER & CO.;

Defendants.

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73 Civil 4403
DBB
AMENDED COMPLAINT

State of New York)
: ss.:
County of New York)

[illegible] T. Sloan, being duly sworn, deposes and says:

JURISDICTION and VENUE

1. The court's jurisdiction is based on Section 22 of the Securities Act of 1933 (15 U.S.C. 77o) (the "Securities Act"), Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) (the "Exchange Act") and the doctrine of pendent jurisdiction.

2. The acts and transaction alleged constitute violations of Sections 5, 12, 17, and 17 of the Securities Act, Sections 9(a), 10(b), 13(a), 15(c), and 18(a) of the Exchange Act, Rules 10(b)-5 and 15(c)3-3 promulgated thereunder, the rules of the New York Stock Exchange, the American Stock Exchange and the National Association of Securities Dealers, state law and the principles of common law.

3. Certain of the acts of and transactions complained of herein occured within the Southern District of New York. A number of defendants reside in or maintain offices in the Southern District of New York and many other actively do business within the Southern District of New York either directly or through their agents. Numerous of the alleged transactions including offerings, purchases, sales, and borrowings of the securities involved herein occured in the Southern District of New York. The securities of Canadian Javelin Ltd. were traded on the American Stock Exchange and in the over-the-counter market in the Southern District of New York.

4. The matter in controversy exceeds the sum of $10,000 exclusive of interests and costs.

5. Defendants carried out the acts and practices hereinafter set forth by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of the American Stock Exchange, which is a national securities exchange.

THE PARTIES

6. The plaintiff in this action, Samuel H. Sloan, is both a purchaser and a seller of shares of Canadian Javelin Ltd. ("Javelin").

7. Canadian Javelin Ltd. is a publicly owned Dominion corporation whose shares were listed and traded on the American Stock Exchange. Its principal office is 1115 Sherbrooke St., Montreal, Canada. A majority of Javelin shares are owned by U.S. citizens. Javelin is considered an American owned corporation by the Internal Revenue Service and consequently is exempt from the interest equalization tax.

8. Defendant American Stock Exchange ("AMEX") is a national securities exchange registered under section 6 of the Exchange Act where securities of Javelin were listed and traded.

9. Defendant Steven L. Gerard is a vice-president in charge of corporate relations at AMEX.

10. Defendant Dow Jones & Co. ("Dow") is the owner and publisher of the Wall Street Journal and Barron's Magazine and owns and operates the Dow Jones News Service.

11. Defendant John C. Doyle ("Doyle") is the Chairman of the Board, former President, promoter, and largest stockholder of Javelin.

12. Defendant William M. Wismer ("Wismer") is the President of Javelin and is also a stockholder and member of the Board of Directors of Javelin.

13. Defendants Lee & Martin and Lee & Martin are accounting firms located in St. John's, New foundland and in Halifax, Nova Scotia.

14. Defendant Stuart Pinkerton ("Pinkerton") is or was the Montreal Branch Chief of Dow Jones & Co.

15. Defendant Standard & Poors' Corp. ("S & P") is the publisher of the Stock Guide, the Outlook, and a variety of other reference and investment adisory services. It is registered with the Securities & Exchange Commission as an investment advisor.

16. Bison Petroleum & Minerals Ltd. ("Bison") is a 61% owned subsidiary of Javelin whose shares are publicly owned and traded on the Canadian Stock Exchange. Its principal office is 1115 Sherbrooke St., Montreal, Canada where it shares office space with Javelin. The Securities & Exchange Commission will not permit Bison shares to be traded in the United States. A number of Bison shareholders are citizens and residents of the United States.

17. Defendant Robert Major is the president of Bison.

18. Defendant Pavonia, S.A. (Pavonia) is a wholly owned subsidiary of Javelin located at 33 Avenida Frederico Boyd, Panama, R.P. Pavonia claims to be the owner of a mineral concession to explore the Cerro Colorado, which is a mountain in Panama.

19. Defendant John Bouchard is a stockholder and the principal of Bouchard & Co., a member of the Toronto and Montreal Stock Exchanges.

20. Defendant Canada Permanent Trust Co. ("Trust") is a major bank in Canada and holds accounts for numerous U.S. depositors. It acts as the transfer agent and registrar for Javelin shares.

21. Defendant The Miami Herald is a newspaper located in Miami, Florida.

22. Defendant Pickands, Mather & Co. ("Pickands") is the managing agent for a group of companies who operate the Javelin-

Wabush Iron Ore Project. It pays royalty income to Javelin of approximately $4.5 million per year.

23. Defendants Wright Engineers Ltd. ("Wright"), Technical Economists Ltd. ("Technical"), and Watts, Griffis, & McOuat Ltd. ("Watts") are mining consulting and engineering firms located in Canada.

24. Defendant Joseph R. Smallwood ("Smallwood") is the former premier of Newfoundland.

25. Defendant Anglo American Corp. ("Anglo") is a holding company located in South Africa which controls certain major mining and smelting companies.

26. Defendant Peter Jeffreys ("Jeffreys") is a resident of Canada and is the author of a newsletter called "New Issues and Industries." Defendant Institutional Services (Deutschland) GmbH ("Deutschland") is the publisher of that newsletter. This newsletter is mailed from Germany to United States residents and contains investment advisory information and recommendations for the purchase and sale of securities. It combines recommendations of major listed corporations with recommendations of little known mining and exploration concerns. It frequently recommends the purchase of shares of Javelin and predicts future prices of Javelin shares.

27. Defendant Bache & Co., Inc. ("Bache"), Burns Bros. & Timmins Inc. ("Timmins"), Edwards & Hanly ("Edwards"), Loeb, Rhoades & Co. ("Loeb"), Merril, Lynch, Pierce, Fenner & Smith Inc. ("Merrill"), F.S. Moseley, Estabrook & Co. ("Moseley"), and Muller & Co. ("Muller") are dealers and clearing members of the New York and American Stock Exchanges and members of the National Association of Securities Dealers.

28. Defendant Arthur Foote is the managing partner in charge of operations at Edwards. Defendant Robert Della is the cashier at Edwards. Defendant Raymond Aronson is house counsel at Edwards.

29. Defendants Chartered New England Corp. ("Chartered"), Dominek & Dominek Inc. ("Dominek"), Pressman, Frohlich & Frost, Inc. ("Pressman") and Wood, Walker & Co. ("Wood") are broker-dealers subject to the rules of the New York and American Stock Exchanges and are members of the National Association of Securities Dealers.

30. Defendant Weis & Baer, Inc. ("Weis") is a broker-dealer and a member of the National Association of Securities Dealers.

31. Defendants Bouchard & Co. and Davidson Partners Ltd. ("Davidson") are Canadian stock brokerage firms and members of the Toronto and Montreal Stock Exchanges.

32. Defendant Oswald, Drinkwater & Graham, Ltd. ("Oswald") is a Canadian stock brokerage firm and a member of the Toronto, Montreal and PBW Stock Exchanges.

33. Defendant Dyer, Maguire, Dritz & Co. ("Dyer") is a member of the American Stock Exchange and was the specialist assigned to handle trading in Javelin.

34. Defendant Engineering Services Ltd. is a Newfoundland engineering concern.

35. Defendant Oliver L. Vardy is a former Newfoundland deputy minister of economic development.

36. A.I.S. Resources is a publicly owned corporation traded on the Canadian Stock Exchange.

37. Defendant World Mining is a mining publication. Defendant McGraw-Hill Inc. is a publishing company.

SIGNIFICANT HISTORICAL INFORMATION

38. Javelin was incorporated under the name of Canadian Javelin Foundries & Machine Works on June 28, 1951. Its name was changed to its present name on April 5, 1954.

39. From July, 1951 through December, 1952 Javelin sold 36,955 shares at approximately $1 per share. These shares found their way into the hands of the public. Other Javelin shares were given away or exchanged for services rendered. In this manner Javelin became publicly owned.

40. In the twenty-one years that have followed Javelin has been the subject of numerous rapid rises in price followed by equally sharp declines.

41. In October, 1953 Javelin was delisted from the Canadian Stock Exchange as a result of a dispute over the accounting methods utilized by Javelin.

42. In September, 1954, Doyle, then Chairman of the Board and President of Javelin, sold to Javelin eight mining claims in Chile for more than 1,000,000 Javelin common shares. The market price of Javelin at that time was $2 per share. Doyle had recently acquired these claims for a nominal sum. As a result the balance sheet of Javelin carried a $2,000,000 asset item which permitted Javelin to retain its listing on the Edmonton Stock Exchange. These properties were subsequently written down to $1.

43. On June 28, 1957 Javelin entered into an "Ore Purchase Agreement" with Defendant Pickands relating to the Julienne

Lake Area. Javelin had previously received the mineral rights to this area from the government of Newfoundland in return for a nominal down payment. Doyle was able to accomplish this by bribing the premier of Newfoundland, Defendant Smallwood. During the middle of 1957 Javelin traded as high as $28 per share having traded at $2 per share two years earlier.

44. From July 25, 1958 to September 25, 1958 Javelin was on the Canadian Restricted List of the Securities & Exchange Commission.

45. On September 23, 1958 the Securities & Exchange Commission commenced an action against Javelin, Doyle and 22 other defendants alleging the sale of unregistered securities and a number of fraudulent and manipulative practices.

46. On September 25, 1958 at a hearing before the Hon. Sidney Sugarman, defendants Javelin and Doyle and eight other defendants consented to a permanent injunction barring them from fraudulent and manipulative practices in the offer or sale of Javelin shares. In addition, Javelin agreed to be transformed into an American company and to have its assets acquired by an American corporation so that there would be no further regulatory and jurisdictional problems with Javelin resulting from Javelin's Canadian nationality and that Javelin would be under the laws and jurisdiction of the United States, the Securities & Exchange Commission and the U.S. District Court as a consequence of the decree. Furthermore, Javelin agreed to file an application for listing on a stock exchange in the United States and to file a registration statement under the Exchange Act with the Securities & Exchange Commission.

47. On June 26, 1959 Javelin filed with the Securities &

Exchange Commission its application for listing on the American Stock Exchange on Form 10. This application contained a virtual invitation from Javelin's management to its shareholders that suits be commenced. On June 26, 1959 the listing of Javelin became effective on the American Stock Exchange.

48. During 1958 and 1959 seven shareholders derivative actions were filed in the United States District Court for the Southern District of New York and eight shareholders derivative actions were filed in the Supreme Court of the State of New York. The U.S. District Court actions were stayed and the State court actions were consolidated into one action entitled Armstrong v. Doyle under the index number 12599/1959. The consolidated complaint alleged 24 separate and distinct causes of action wherein Doyle had wasted or misappropriated the assets of Javelin. Extensive discovery proceedings were conducted. This litigation resulted in a settlement which was widely publicized as being "substantial." However, the settlement in question resulted in nothing more than a further wasting in the assets of Javelin and a continuation of the fraud which was perpetrated on the public. Under the terms of the settlement Doyle was to pay Javelin the sum of $3,350,000. $350,000 was to be paid in unregistered "investment letter" stock in Javelin evaluated at the market price at the time of payment. The remaining $3,000,000 was to be paid in the form of a promissory note signed by Doyle. Doyle was to retain his position as chief executive of Javelin. In addition Doyle agreed to cancel a contract with Boon Strachan for a royalty of 5% on all products sold by Javelin. Boon Strachan was wholly owned by Doyle. This contract was invalid on its face since

Doyle signed the contract in behalf of Javelin when he had no authority to do so and the contract proved to be worthless since Javelin never had any products to sell. For the purpose of determining the legal fees, cancellation of this contract was valued at between $5,000,000 and $10,000,000.

49. After the referee had decided that this settlement was fair and adequate the settlement offer was accepted and the court ordered Javelin to pay $832,500 to the attorneys for the various plaintiffs and an additional $125,000 to the referee. Doyle continued to waste the assets of Javelin. The $3,000,000 promissory note was never paid.

50. A United States grand jury indictment was made public on August 7, 1963 charging violations of the Securities Act against Doyle, then Chairman of the Board and President of Javelin, and three others. On February 4, 1965, Mr. Doyle pleaded guilty to one count of the indictment which charged that he sent 50 unregistered Javelin shares through the mails. On May 3, 1965 Doyle was sentenced to pay a fine of $5,000 and to a sentence of three years, all but three months of which was suspended, with probation for one year. All other counts of the indictment were dismissed. Following the unsuccessful appeal of Doyle's sentence Doyle was to have appeared to commence serving the three month sentence on July 15, 1965. He did not appear on that date and is currently considered to have illegally absented himself from the jurisdiction of the United States under the laws of the United States.

51. Javelin was suspended from trading by the S.E.C. from March 17, 1971 to April 5, 1971 because of the unavail-

ability of adequate and accurate information concerning mineral deposits within a mining concession in the Republic of Panama owned by Pavonia, S.A. Rumors concering this concession had apparently been the basis for sharp increases in the price and volume of trading of Javelin stock.

52. The S.E.C. issued a release dated April 1, 1971 announcing that the trading suspension in Javelin would be terminated on April 5, 1971. The Commission reminded broker-dealers that before effecting transactions in the securities of Javelin they had the obligation of assuring themselves that such transactions complied with the applicable provisions of the federal securities laws. Moreover, the Commission stated that broker-dealers who solicit transactions in the securities of Javelin without first making diligent inquiry to determine all pertinent information about the Company, particularly with regard to the Pavonia project, may be violating the anti-fraud provisions of the federal securities laws by disseminating inaccurate or incomplete information to prospective purchasers or sellers.

53. Javelin was suspended from trading by the S.E.C. from March 7, 1972 to August 9, 1972. The suspension was ordered because of the unavailability of adequate and accurate information concerning actions taken by the government of Newfoundland with respect to the company's linerboard project at Stephenville, their implications, and their effect on the company's financial picture. This suspension was terminated following the filing of a form 10-K with the S.E.C. for the year ending 1971.

54. Javelin did not hold an annual meeting of shareholders from June 22, 1971 to May 9, 1973 in volation of Canadian corporation laws.

55. In December, 1972 the Royal Canadian Mounted Police searched the offices of Javelin and seized a large quantity of files and records belonging to Javelin. This search and seizure was part of an investigation of criminal charges of bribery and extortion involving Doyle and Joseph R. Smallwood. This investigation is still continuing.

56. Doyle is wanted by the F.B.I.

COUNT I

Sections 5, 12, and 15 of the Securities Act.

57. The securities of Javelin have never been registered under the Securities Act nor has a registration statement ever been filed.

58. Javelin has permitted its shares to be purchased and sold by the public and to be actively traded in the absence of a Securities Act registration statement and in violation of a permanent injunction dated September 25, 1958.

59. Defendants Doyle and Wismer are controlling persons of Javelin and have permitted and encouraged active trading in the absence of a Securities Act registration statement.

60. Doyle has personally bought and sold Javelin shares in the absence of a Securities Act registration statement and in violation of a permanent injunction dated September 25, 1958.

61. Defendant AMEX knew these shares had never been registered under the Securities Act and knew of the injunction and the subsequent litigation and nevertheless permitted Javelin shares to trade on that exchange.

62. Defendants Bache, Timmins, Chartered, Dominek, Dyer, Edwards, Loeb, Merrill, Moseley, Muller, Pressman, and Wood were members of the AMEX and purchased and sold Javelin shares in the absence of a Securities Act registration statement.

63. Defendants Bouchard, Davidson, Oswald, and Weis had access to the AMEX and purchased and sold Javelin shares in the absence of a Securities Act registration statement.

64. In 1973, Javelin made an offer to exchange its shares for shares of defendant Bison in order to cause Bison to become a wholly owned subsidiary of Javelin. No registration statement was filed pursuant to this exchange offer either by Javelin or Bison.

65. On May 17, 1971 Javelin, acting in their own behalf and in behalf of defendant Trust, wrote the Securities & Exchange Commission requesting a no-action letter in connection with a proposed sale of unregistered securities as part of a stock dividend. This proposed sale was to be effected by defendant Trust acting in coordination with the American Stock Exchange specialist in Javelin shares. This request for a no-action letter was denied by the S.E.C. (CCH Fed. Sec. Law Rep. ¶78,337 ('71-'72 Transfer Binder)). Nevertheless, defendant Trust effected this sale of unregistered securities in 1971 and repeated this sale in 1972 in connection with a stock dividend that year.

66. Defendant Bouchard & Co. has purchased and sold unregistered Javelin shares for Doyle through the accounts of his nominees. John Bouchard is the principal of Bouchard & Co. and deals directly with Doyle, handling all of his accounts. Bouchard & Co. also deals in unregistered shares of

Bison, A.I.S. Resources, Dominion Jubilee, and other public companies controlled by Doyle.

67. Bouchard & Co. has made a firm recommendation that its customers purchase Javelin shares while these shares were trading in the absence of a Securities Act registration statement.

COUNT II

Section 17 of the Securities Act, Section 10(b) of the Exchange Act, promulgated thereunder and Rule 10(b)-5

68. Plaintiff repeats and realleges each of the allegations contained in Paragraphs 1 through 67.

69. In early January, 1973 Javelin was selling for 5 7/8. Since that time Javelin has stated through press releases, shareholders letters, and its annual report that through its subsidiaries Javelin has acquired mineral concessions for a total of 600,000 acres of land in Panama; that copper, gold, and silver deposits are to be found on these properties; that Javelin subsidiaries have the right to exploit and extract the copper and other minerals found on these properties; in that Javelin has discovered the largest proven copper reserves in the world on these properties; that Javelin has delineated an area of 2.2 billion tons of copper bearing minerals in the Cerro Colorado area of Panama; that said copper mineralization is of a commercial grade; that preliminary reports show that a copper mine is commercially feasible; that Wright Engineers Ltd. is preparing a feasibility study based on a production capacity of 80,000 metric tons of copper ore per day; that a copper concentrator and smelter is going to be built at the drilling site; that Javelin has entered into

financing agreements with British interests to provide the $500 million financing necessary for the project; that defendant Doyle and Peter La Rush, a Javelin geologist and Vice President of Pavonia, have entered into negotiations with Brig. Gen. Omar Torrejos concerning the development of the properties; and that Javelin planned to start construction of production facilities within a month.

70. All of these statements and the numerous other statements and press releases issued by Javelin and its officers and subsidiaries were false, misleading, untrue, and deceptive.

71. What is in fact the case is: 1) that the copper bearing properties in question were discovered by a U.N. Development team a number of years ago and have never been proven to be of commercial significance; 2) that Javelin has been granted the right to explore the area and drill for copper only under close government supervision; 3) that the Government of Panama has not granted Javelin the right to exploit the properties or to take an ounce of minerals out of the ground other than core samples; 4) that the drill holes are spaced at such wide intervals that from a geological point of view no significance could be attached to the drilling results Javelin has obtained thus far; 5) that the early drill holes failed to show acceptable gradations of copper and Javelin has obtained better results only by drilling holes deeper than a commercial mine could be expected to reach; 6) that due to Mr. Doyle's poor reputation in Panama and to other factors including economic and political considerations it is unlikely that Panama will ever grant Javelin or its

subsidiaries the right to mine copper and if it did so the Government of Panama would be in a position to dictate the terms of the contract in such a way as to preclude Javelin from ever making a profit on the project and 7) even if Javelin were to get the exploitation contract it seeks it is unlikely that it could obtain the $500 million necessary to finance the project or that Javelin would ever be able to open a copper mine in Panama.

72. On Wednesday, June 20, 1973, at a luncheon of the Foreign Correspondents Club of Panama, the Minister of Commerce and Industries of the Republic of Panama, Fernando Manfredo, said that Panama had postponed for at least two months, while it draws up a new mining code, talks with Javelin for a major copper mining concession. He also said that a draft proposal submitted by Javelin last May 7 to develop the Cerro Colorado copper deposit was shelved and the company was told it would have to await the approval of a new code before negotiations could resume. He also said: "We do not have sufficient information to support the claims of Canadian Javelin that this is the biggest copper deposit in the world." He added that the government "is now thinking of mining the copper reserves itself."

73. This press conference was reported widely in Panama and carried on the United Press International news wires on June 20, 1973. It was the subject of an article in a Montreal Gazette the following morning.

74. Defendant Dow and Pinkerton knew of the press conference and the U.P.I. news wire and the importance it had with respect to the market of Javelin shares. Nevertheless, a report of

this news conference was not carried in any Dow Jones & Co. publication.

75. As a result of this announcement by the appropriate governmental authority, defendants Javelin, Doyle, Wismer, Bison, Major, John Bouchard, Bouchard & Co., Jeffreys, and Deutschland acting together and in concert with each other and with defendants Dow, Pinkerton, and The Miami Herald, commenced a high pressure publicity campaign to cause the price of Javelin shares to rise in order to enable the existing holders of Javelin to sell out their interest in Javelin before the coming callapse of the market.

76. As a result of the article in the Montreal Gazette on June 21, 1973 an officer of Javelin called Steven Gerard of the AMEX. Gerard is a vice-president of the AMEX and is responsible for supervising any affairs involving Javelin. The officer of Javelin requested that the AMEX halt trading in Javelin shares because of the unfavorable article in the Montreal Gazette. As a result there was no trading in Javelin on the AMEX for successive days.

77. On that date and on the days that followed plaintiff held a substantial short position in Javelin shares. He had entered purchase orders with various stock brokers who were members of the AMEX including defendant Pressman, Wood, and Edwards which, had those orders been filled, would have covered his short position. Because Javelin was halted from trading by the AMEX the normal forces of supply and demand were interrupted and plaintiff was prevented from covering his short.

78. The report of the June 20 press conference was never carried in any American financial publication. Consequently,

both Javelin and the AMAX knew that the public was not aware of the June 20 press conference and never became aware of the reason Javelin was halted from trading on subsequent days.

79. On June 22, 1973 Javelin issued a press release for release Monday, June 25 which was mailed to all registered shareholders of Javelin including plaintiff. That release stated:

> "Mr. John C. Doyle, Chairman of the Executive Committee of Canadian Javelin Limited, in charge of the companies Cerro Colorado project in Panama, stated today from Panama that Minister Fernando Manfredo's statement made it clear and confirmed that the company has delineated one of the world's largest copper mines"

80. This statement was exactly the opposite from what Manfredo had actually said.

81. In the same press release it was stated that Doyle had said:

> ". . . in the first fifteen years of operation it is expected that the total material extracted in this open pit mine will be greater than the total yardage excavated in building the Panama canal itself."

82. This statement failed to state that the government of Panama had refused to negotiate with Javelin concerning the project, that Javelin had no authority to commence the project without government approval, and that the government was thinking of mining the project itself.

83. The press release further said:

> "The Chairman stated that the size of the Cerro Colorado deposits their company engineers had calculated in early June, 1973 was approximately 2,271,000,000 tons indicated by drilling."

84. In actuality this figure represented the gross weight of the Cerro Colorado mountain taken from its peak to its base.

85. The release further stated:

> ". . . the Company has been advised by one of the world's foremost geological consulting firms, Watts, Griffis and McOuat Ltd., Toronto, Canada, that the potential reserves are expected to be in excess of 3,000,000,000 tons."

86. This calculation appears to include the Cerro Magla, an adjoining mountain, where only one preliminary hole had been drilled which was of no geological significance.

87. The release further stated:

> "Finally, Mr. John C. Doyle pointed out that a group of consultants working on the project led by Wright Engineers Ltd. of Vancouver, Canada are sizing equipment, completing the pricing and determining all relevant economic and cost factors. This work is scheduled to be completed early in August of 1973 and the company expects to be ready shortly thereafter with the financing and marketing completed to enable the establishment of a mining and milling installation which, when fully operative, would have a capacity of 176,000 tons per day."

88. Defendant Wright Engineers Ltd. had, in fact, prepared a report on the commercial feasibility of the project for Javelin at the request of the government of Panama. Before the report was completed Javelin instructed Wright to scrap the report and prepare a new report based on increased operating capacity. This report was not completed in August of 1973 and if it was ever completed it was not made public.

89. The last paragraph of that release stated:

> "There is now at Cerro Colorado a technical staff of Panamanian and Canadian engineers, geologists, drillers, and approximtely three hundred Panamanian contruction and exploration employees."

90. In reality, there were four geologists, no engineers, six drillers, and about 150 unskilled Panamanian laborers who were paid an average of less than $4.00 per day and whose primary job was to move drilling equipment and to rebuild the road from the camp site to the drilling sites after it got washed out by the rain.

91. On Monday, June 25, 1973 the Wall Street Journal carried an article which referred to the June 20 press conference but did not convey the unfavorable impact this news might have on the market in Javelin shares.

92. On June 25, following the Javelin press release and the article in the Wall Street Journal, the AMEX permitted Javelin to resume trading. Trading opened at a price of 7 on 1200 shares. Of that, plaintiff purchased 1700 shares through defendant Edwards. The price of Javelin rose immediately thereafter and plaintiff could not purchase any more shares at 7 or better.

93. Plaintiff continued to enter purchase orders and to make efforts to purchase Javelin shares at a reasonable price. On July 3, 1973 plaintiff purchased 1000 Javelin shares at a price of 7 and 500 shares at a price of 6 7/8 through defendant Wood and placed orders to buy more. However, Javelin thereafter commenced a rapid rise and plaintiff could not purchase any more shares at these prices.

94. On July 5, 1973 the Dow Jones News Wire carried a statement which stated:

> "BISON PETROLEUM & MINERALS LTD 61 PC OWNED BY CANADIAN JAVELIN LTD SAID IT HAS ACQUIRED A 200,000 ACRE MINERAL CONCESSION FROM THE GOVERNMENT OF PANAMA.
>
> "BISON SAID THE CONCESSION IS KNOWN TO CONTAIN GOLD SILVER AND OTHER METALS.

"THE AGREEMENT CARRIES THE RIGHT TO PROCEED FURTHER TO ANOTHER AGREEMENT FOR ACTUAL EXPLORATION.

"CANADIAN JAVELIN SAID THAT WITH ITS WHOLLY-OWNED SUBSIDIARIES AND MAJORITY-OWNED BISON IT HOLDS 600,000 ACRES OF MINERAL CONCESSIONS IN PANAMA.

"BISON ALSO SAID IT NEGOTIATED AN AGREEMENT IN PRINCIPLE WITH A.I.S. RESOURCES LTD MONTREAL FOR PARTICIPATION BY A.I.S. IN FINANCING OF AN EXPLORATION AND DEVELOPMENT PROGRAM ON THE MINERAL CONCESSION. DETAILS WILL BE ANNOUNCED AFTER APPROVAL BY REGULATORY AUTHORITIES."

95. This release was false, misleading, deceptive and failed to state material facts. It was fraudulent in the following ways:

1) The Government of Panama does not sell concessions. It grants concessions.

2) The Government of Panama did not grant any mineral concessions during this period.

3) Bison had not even applied for a concession nor was it qualified to do so because it was not qualified to do business in Panama under Panamanian Law.

4) The existing exploration concessions granted to Javelin subsidiaries only gave them the right to negotiate with the government for an exploration agreement.

5) Only traces of gold and silver were known to be found on the concessions granted to Javelin subsidiaries.

6) A.I.S. Resources was a publicly owned shell corporation controlled by Doyle with virtually no tangible assets.

96. On July 5, 1973 Javelin closed at 8 up 7/8 from the previous days close.

97. On July 6, 1973 an article appeared in the Wall Street Journal which was essentially the same as the release on the Dow Jones News Wire the previous day. That statement was attributed to defendant Major.

98. Defendant Major knew or should have known that the statemont in the news release of July 5 and the article of July 6 were false and misleading.

99. The news release of July 5 was put on the Dow Jones News Wire on July 5 and in the Wall Street Journal on July 6 by the authority of defendant Pinkerton.

100. Pinkerton knew or should have known that it contained false and misleading statements.

101. Defendant Dow Jones & Co. knew or should have known that the July 5 news release contained false and misleading statements.

102. Defendants AMEX and Gerard knew or should have known that the June 22 press release, July 5 news release and the July 6 article contained false and misleading statements.

103. On July 5, 1973 after learning of the news release on the Dow Jones News Service, plaintiff placed a telephone call to the Republic of Panama.

104. Plaintiff reached Fernando Manfredo at about 5:30 P.M. that day. He read the story on the Dow Jones wire to Manfredo. Manfredo told plaintiff that the story was not true because: I) Panama does not sell mineral concessions but grants concession and these concessions are non-transferable and non-assignable; II) The Government of Panama had dealt only with Pavonia, S.A., a Panamanian Corporation, and had never heard of Bison; III) Panama had cut off all negotiations with Pavonia and Javelin; and IV) Panama was not granting any new mineral concessions until its new mining code was drawn up which would take at least a month.

105. Within fifteen minutes after he spoke to Manfredo,

plaintiff called Stuart Pinkerton of Dow Jones & Co. in Montreal and told him what Manfredo had said. He informed Pinkerton that the news release on the Dow Jones wire was untrue. Pinkerton expressed a total lack of interest in the matter. Plaintiff also placed calls to Larry Grimes of the S.E.C. in Washington, D.C. and Steven Gerard of the American Stock Exchange. He informed them of this matter as soon as he could reach them. Grimes is in charge of handling all matters at the S.E.C. with respect to Javelin. Plaintiff knew these individuals because he spoke to them on many occasions about Javelin prior to that time. He has also spoken to them several times since.

106. Plaintiff made these calls because at that time he was a short seller of Javelin and he was afraid that the release of false news information about Javelin might cause a rise in price and result in a great financial loss to plaintiff.

107. Because he was unsatisfied with the response he got from Stuart Pinkerton, plaintiff called Tom Mitchell of Dow Jones & Co. in New York the next day and requested that Dow Jones & Co. print a retraction to the July 5 news release and the July 6 article.

108. Mitchell said to plaintiff, "Everyone knows that Javelin lies." He promised he would look into the matter.

109. The resulting inquiry from their New York office caused Dow Jones & Co. in Montreal to call plaintiff. Plaintiff gave them Manfredo's telephone number in Panama. The next week plaintiff spoke to Nick Thomas of Dow Jones & Co. in

Montreal on the telephone. Thomas told plaintiff that they had spoken to both Manfredo and Doyle on the telephone over the previous weekend and that Manfredo had told Thomas exactly what Manfredo had told plaintiff as described in paragraph 22. Thomas said that Dow Jones & Co. was about to publish an article concerning these events. That article never appeared. However, a few days later, Dow Jones & Co. did publish and article reporting a telephone interview with defendant John C. Doyle. That article created a further false and misleading impression with the public.

110. Subsequently, plaintiff called Mitchell to learn the results of his inquiry. Mitchell said that he had referred plaintiff's complaint to Stuart Pinkerton. Mitchell told plaintiff that Pinkerton has said that he had checked it out with government officials in Panama and found the story to be true. Plaintiff told Mitchell that the Montreal office had told plaintiff exactly the opposite. Mitchell refused to look into the matter any further and told plaintiff that if he had any more questionshe should call Pinkerton directly.

111. On Sunday, July 8, 1973, plaintiff visited the offices of Dow Jones & Co. in Montreal. He spoke to Bob Cameron there.

112. The next day defendant Pinkerton telephoned plaintiff at his office in New York. Pinkerton voiced displeasure at the fact that plaintiff came to see Dow Jones & Co. on a Sunday. Pinkerton told plaintiff not to speak to his staff reporters anymore. He said that if plaintiff had a legitimate news item about Javelin he should call Pinkerton exclusively.

113. Plaintiff told Pinkerton that he objected to this on the ground that Dow Jones & Co. was making a practice of

publishing false news information about Javelin and plaintiff felt he had a duty to protect himself and inform them of that fact.

114. On July 23, 1973 plaintiff wrote a letter to Dow Jones & Co. pointing out that the July 5 and July 6 statements were untrue and the manner in which they were untrue. Plaintiff threatened legal action unless Dow Jones & Co. printed a retraction.

115. In its reply dated August 6, 1973 Dow Jones & Co. told plaintiff that "there is some confusion in your mind" about the events complained of in plaintiff's letter.

116. On October 25, 1973 and October 30, 1973 the Wall Street Journal published articles which reveal that plaintiff's position had been correct all along.

117. After the July 5 news release Javelin began a sudden and swift rise in price. Javelin averaged more than 50,000 shares a day and usually was on the most active list of the AMEX. On many days the volume of Javelin on the montreal Stock Exchange exceeded the volume on the AMEX. This occurred while the rest of the market was suffering a severe decline.

118. On July 17, 1973 an article appeared in The Miami Herald entitled "Gold, Copper finds stir Panama Economic Hopes."

119. This article stated that Bison, 61% owned by Javelin, had acquired a 200,000 acre concession to explore and exploit gold, silver, and other mineral deposits. It further stated that the concession contained at least 115,000 tons of gold-bearing ore with one-quarter to one-third of an ounce of gold per ton.

120. The article further stated that the Cerro Colorado

area contained a potential six to eight billion tons of copper ore.

121. The article also stated that Javelin was assembling $600 million capital needed to develop the Cerro Colorado and gave expansive projections as to how this money was to be spent.

122. In addition the article repeated various untrue statements that had been made in Javelin press releases. No source was given for the statements made in the article. Presumably they came from someone connected with Javelin.

123. This article was false and misleading in that there was no basis for the projections made in the article and Javelin lacked the means to obtain $600 million in financing.

124. On July 18, 1973 The Miami Herald carried a further article stating the "Panama had advised Canadian Javelin that it will form a committee to negotiate a contract with the metals firm . . ." and made various projections concerning Javelin's future in Panama.

125. This article was false and misleading in that the government had not agreed to form a committee. In addition, Javelin is not a metals firm. Javelin is solely an exploration concern and only one of the properties it has explored has reached the development stage.

126. Defendant The Miami Herald knew or should have known that the statements contained in the articles of July 17 and July 18 were false and misleading.

127. On July 26, 1973 Javelin reached the price of 14 5/8. Plaintiff was still short Javelin shares and was in the throes of a severe financial setback. Accordingly, plaintiff decided

to go to Panama the next day to see the copper drilling site in the Cerro Colorado area.

128. Late in the afternoon of July 26 plaintiff received a telephone call from Barry Newman, staff reporter of the Wall Street Journal. Newman told plaintiff he had gotten plaintiff's name from the Montreal office of Dow Jones & Co. He asked plaintiff various questions.

129. On the morning of Friday, July 27, plaintiff arrived in the Republic of Panama. He went to see the Department of Mineral Resources in Panama and spoke to Jaime Roquebert, the Deputy Director of Mining Resources. Mr. Roquebert had a large three-dimensional scale model of the Javelin drilling project in his office. Mr. Roquebert introduced plaintiff to Dr. Quiros, the Director of Mining Resources. Altogether, plaintiff spoke to Mr. Roquebert and Dr. Quiros for about two hours. After these conversations plaintiff went to the headquarters of Javelin International, S.A. at 33 Avenida Frederico Boyd. He spoke to Peter La Rush and asked Mr. La Rush for permission to visit the Cerro Colorado drilling site. Mr. La Rush made arrangements for plaintiff to make the trip. Plaintiff took a room at the Hotel El Panama, formerly the El Panama Hilton, of which Mr. Doyle owns a controlling interest. He met Mr. Doyle in the lobby of the Hotel and told Mr. Doyle he would be visiting the drilling site the next morning.

130. On the morning of July 28, plaintiff took a commercial flight to David, R.P. and flew to the Cerro Colorado drilling site on a supply airplane chartered by Javelin. He climbed around the Andes Mountains looking at drill holes and core

samples all day. He talked to the geologists at the drilling camp and spent the night there. Early the next morning he was flown out of the drilling camp and was back in the U.S. the same evening.

131. The next day Steven Gerard asked plaintiff how he liked his trip to Panama. Plaintiff had not told anybody that he had been to Panama the previous weekend. The same day defendant Wismer wrote plaintiff a letter on Javelin stationary stating that Javelin would hold plaintiff liable for anything he said about the drilling project.

132. The newsletter published by defendant Deutschland and authored by defendant Jeffreys is a tout sheet. It is evident from an examination of this tout sheet that it is employed by defendants Doyle, Javelin, and Wismer to induce individuals to purchase Javelin shares. During the period in question this tout sheet made numerous prdictions as to the future price of Javelin shares. It accurately prdicted that Javelin would reach a price of 15. However, it faultered when it predicted Javelin would reach the price of 30. The November 1, 1973 issue of New Issues and Industries stated:

> "In Eastern financial centers presumed experts were telling clients to sell Javelin shares at $7 because Panama's political climate would never permit the controversial John Doyle to bring his mine into production. In Panama, however, we learned that relations with Omar Torrejos were so amiable that the general's personal helicopter was being used to fly drilling equipment around in the mountains. Our first immediate target for the stock became $18, and it reached there. Next drive should be the high 20's . . . ."

This statement was false and misleading in that Doyle does not have a mine, Doyle is on poor terms with Torrejos,

the helicopter which Javelin rents from the government does not beling to Torrejos, and any price predictions are inherently false and misleading.

133. Defendant S & P has disseminated to the public and to other financial services including the Associated Press false and contrived information about Javelin. Unlike other listed companies, Javelin does not report its earnings in terms of cents per share. Defendant S & P translates the earnings report of Javelin in such a way as to embellish them. For the twelve months ending March 31, 1973 S & P reported a profit of 3¢ per share shereas in reality Javelin reported a substantial loss. This embellished earnings report was carried in the Stock Guides for June, July, and August which were given away by the major stock brokerage firms to their customers. This earnings report was also carried in the financial sections of all major newspapers which subscribe to the Associated Press and throughout the financial media. This contributed to the rise in price of Javelin shares. Defendant S & P knew or should have known that this earnings report was false and misleading.

134. There appears to be two Lee & Martins. The Defendant Lee & Martin, which does the accounting work for Javelin, knowingly certified financial statements of Javelin which contained false and misleading entries. These false and misleading entries are enumerated in paragraphs 184 through 203 of Count III of this complaint and are incorporated herein by reference.

135. Defendant Lee & Martin, which does not do the accounting work for Javelin, nevertheless permitted its name to be used in connection with false and misleading statements filed by

Javelin. Defendant Gerard advised plaintiff that Lee & Martin was a major accounting firm and would not lend its name to a false and misleading certified report. Gerard did not advise plaintiff that there were two Lee & Martins or whether the Lee & Martin that did the accounting for Javelin was a major firm. Both Lee & Martins were negligent in their failure to make it known which one was doing the accounting for Javelin.

136. Defendant Pickands has permitted the use of false and misleading statements and acted in such a way as to defraud creditors of Javelin. According to the recent annual reports of Javelin, Pickands pays royalty income to Javelin of about $4.5 million per year. However, Pickands does not pay all of these funds directly to Javelin but rather pays them to whomever Javelin directs that payment be made. As a result the financial statements of Javelin show the receipt and disbursement of substantial sums in cases whereas in reality no actual cash has changed hands.

137. By this fraudulent device, Javelin is able to retain its listing on the AMEX.

138. In 1971 and again in 1972 defendant Trust withheld 10% of a 3% stock dividend paid to U.S. residents. This stock dividend was declared when Javelin did not have adequate surplus within the meaning of rule 10(b)-12 under the Exchange Act. The withholding tax was not used for the purpose intended but rather was used to satisfy a tax liability for Javelin.

139. Defendant Pavonia has permitted its name to be used in false and misleading statements made about Pavonia and its

operators by defendant Javelin, Doyle, Wismer, Bison, and Major. There is no reliable means to determine whether Pavonia is, in fact, owned by Javelin, who owned Pavonia before Javelin, or what were the terms by which Javelin acquired Pavonia. No financial statements on Pavonia are avaiable. Pavonia has thereby enabled defendants Javelin, Doyle, and Wismer to effect a scheme to perpetrate a fraud.

140. Defendant Wright has permitted its name to be used in connection with reports by Javelin that Wright was preparing a study on commercial feasibility on the Cerro Colorado project. Wright withheld a first report and either never completed or never made public a second report.

141. Defendant Watts, Griffis, and McOuat Ltd. has permitted its name to be used as the authority for a statement that the Cerro Colorado has potential reserves expected to be in excess of 3,000,000,000 tons. In actuality there is no geological basis for such a projection. In addition the Javelin drill holes are too far apart to attach any geological significance to the results thus far obtained.

142. Defendant Technical Economists Ltd. has lent its name to a false and misleading commercial feasibility study proportedly prepared by it. An article in the Wall Street Journal dated December 27, 1972 stated that the feasibility study prepared by Technical Economist Ltd. "indicates an attractive profit potential."

143. Defendant World Mining published an article on the Cerro Colorado project in its February, 1973 issue. That article stated: "There seems little doubt that 500,000,000 tons

of .75 percent copper have been proven in this zone." A copy of the article was mailed to all Javelin shareholders.

144. In reality there are no "proven" reserves in this zone. World Mining knew or should have known that statments in this article were false and misleading.

145. On March 1, 1972 the Wall Street Journal carried an article entitled: "Brash Entrepreneur: Canadian Javelin Has Never Earned a Lot But John Doyle Has."

146. This article revealed a wide variety of fraudulent practices of Javelin, Doyle, and Smallwood.

147. In December, 1972 the Dow Jones News Service stated that the offices of Javelin had been raided by the Royal Canadian Mounted Police.

148. On December, 1972 an editorial was published in Barron's Magazine which was critical of the American Stock Exchange for permitting Javelin shares to trade on that exchange.

149. During the first nine months of 1973 the Wall Street Journal and the Dow Jones News Service carried a series of articles and releases which were highly favorably to Javelin and were designed to mislead the public into believing that Javelin had a major Copper find in Panama and that Javelin had the right to exploit the properties and the development of the properties was about to commmence.

150. Defendant McGraw-Hill, Inc. is the publisher of the "Engineering and Mining Journal." The December 1972 Engineering and Mining Journal carried an article entitled "Canadian Javelin eyes production at major copper find in Panama."

151. This article stated that the 1971 suspension of trading

in Javelin came as a result of a previous article in the same publication. It further stated: "The question no longer seems to be if it will hit the target, but when." This statement was false and misleading. McGraw-Hill Inc. knew or should have known that the statement was false and misleading.

152. A reprint of the article in the Engineering and Mining Journal was sent to all registered Javelin shareholders by defendant Wismer. McGraw-Hill Inc. knew or should have known that this artile was mailed to all Javelin shareholders in order to cause the price of Javelin to rise on the American Stock Exchange.

153. In 1971 and again in 1972 defendant Trust took a 10% withholding tax on a 3% stock dividend paid to U.S. residents who owned shares of Javelin. This withholding tax was to be paid to the Receiver General of Canada. This stock dividend in no way benefited the U.S. shareholders of Javelin and resulted in a dilution of their holdings as a result of the 10% withholding tax.

154. At this time defendants Doyle and Javelin owed maneys to the Receiver General of Canada for back unpaid taxes.

155. The taxes withheld by defendant Trust were not withheld for the benefit of Javelin shareholders but rather for the benefit of Javelin and Doyle. The funds were applied to the payment of taxes owed by Javelin and Doyle.

156. Defendant Trust knew or should have known that by withholding this tax it was participating in a scheme to defraud Javelin shareholders.

157. Defendant Wismer, acting in his capacity as the President of Javelin, issued press releases and sent numerous

letters to shareholders of Javelin containing false and misleading statements complained of herein.

158. Defendant Engineering Services Ltd. was the principal in a scheme whereby Javelin shares were issued to defendants Smallwood and Vardy, then officials of the Government of Newfoundland, in return for which the Government of Newfoundland gave Javelin favored status with regard to the Linerboard Mill Project and the related Javelin Forest Products Project.

159. Defendants Javelin, Doyle, Smallwood, Engineering Services Ltd., Vardy, and Lee & Martin were the principals in a scheme to defraud through the "purchase" by Javelin of the "timber rights" to 300,000 acres of trees in Labrador. Defendant Smallwood "gave" the timber rights to a Liechtenstein Corporation. The Liechtenstein Corporation then "sold" the same timber rights to Javelin for $4,000,000. Presumably Doyle was the undisclosed principal of the Liechtenstein Corporation. Shareholders of Javelin were thereby defrauded out of $4,000,000. The $4,000,000 was carried as an asset on Javelin's balance sheet thereby enabling Javelin to retain its listing on the American Stock Exchange. Defendant Lee & Martin certified several financial statements carrying this $4,000,000 asset item.

160. It is impossible to determine from the current financial statements of Javelin whether this $4,000,000 is the same as the $4,263,405 that the government of Newfoundland refuses to pay Javelin, or if this sum is carried elsewhere under "Mineral and oil rights, leases, permits and concessions including development costs" or if it has been dropped from Javelin's balance sheet.

161. The current government of Newfoundland refuses to acknowledge the gift of the timber rights to the 300,000 acres of trees in Labrador. The latest Javelin annual report carries no reference to the Javelin Forest Products Corp.

162. During the period in which plaintiff was a seller of Javelin shares, these shares were being purchased by defendants Anglo American Corp., Loeb, Timmins, and Dyer.

163. Defendant Anglo American Corp failed to make public disclosure of its purchases of Javelin shares during this period.

164. Defendant Anglo American Corp. permitted rumors to circulate that it was attempting to acquire a controlling interest in Javelin. These rumors led the public to believe that Javelin had found gold in Panama.

165. Defendant Timmins accounted for a substantial portion, perhaps a majority, of all trading in Javelin on the AMEX. Timmins failed to make public disclosure of the extent of its trading in Javelin.

166. Defendant Dyer permitted Javelin to trade during a period of market manipulation in Javelin.

167. Defendant Loeb was the principal buyer of Javelin during the period when plaintiff was a seller of Javelin.

168. Many of the purchases of Javelin by Loeb were for the account of other boker-dealers for whom it acts as a clearing agent.. Loeb is the largest broker specializing in clearing for other brokers. Loeb frequently does not disclose the name of the brokers for whom it is acting. By dealing on and "undisclosed bases" in Javelin, Loeb assumed the liability for the transactions in Javelin in its name.

169. Defendant Bouchard & Co. made false and misleading statements about the Cerro Colorado project in recommending the purchase of Javelin shares to the customers of Bouchard & Co.

170 Defendant Bouchard & Co., Timmins, Dyer, and Loeb manipulated the market in Javelin shares.

171. Defendant Bache, Chartered, Davidson, Dominek, Edwards, Loeb, Merrill, Moseley, Muller, Oswald, Pressman, Weis, and Wood knowingly dealt in Javelin shares at a time when false and misleading statements were being circulated about Javelin and when Javelin was the subject of a market manipulation.

172. Plaintiff was at all times from January to August of 1973 a short seller of Javelin shares. Plaintiff made numerous purchases and sales of Javelin shares during this period.

173. In January, 1973 Javelin traded at 5 7/8. On July 4, 1973 Javelin traded at 7 1/8. On July 26, 1973 Javelin traded at 14 5/8. On September 14, 1973 Javelin traded at 18.

174. During the last three weeks of July, 1973 Javelin was on the most active list of the American Stock Exchange on numerous occasions. During normal periods, Javelin traded only a few thousand shares a day.

175. During July, 1973 Javelin experienced a sharp rise in price during a period when the rest of the market was declining.

176. Because of the rise in price of Javelin several brokers demanded that plaintiff deliver Javelin shares to them. Plaintiff was unable to deliver Javelin shares.

177. During July and August of 1973 several brokers sent

plaintiff confirmations of purchases of Javelin shares. Plaintiff does not know if these confirmations represent actual transactions. Plaintiff did not authorize any purchases of Javelin during this period.

178. Apparently Steven L. Gerard of the American Stock Exchange undertook certain actions which caused members of that exchange not to notify plaintiff of their intent to buy-in Javelin shares. Instead, these transactions were bought-in or cancelled without notice or confirmations. Because of this lack of notice or confirmation of trades, plaintiff does not know where he stands with respect to Javelin. It is entirely possible that plaintiff is still short Javelin shares.

179. Assuming that all Javelin shares sold short by plaintiff were bought-in and that all the trades were valid transactions, plaintiff believes that his trading loss could be as high as $170,000 based on the prices at which Javelin traded.

180. Plaintiff maintains that many of these transactions if, in fact, they occurred, are invalid because they were not authorized by plaintiff and he did not receive notice or confirmation of them.

181. If these are valid trading losses the liability for them rests with defendants Javelin, AMEX, Dow, Doyle, Wismer, Lee & Martin, Lee & Martin, Pinkerton, S & P, Bison, Major, Pavonia, John Bouchard, Trust, The Miami Herald, Pickands, Wright, Smallwood, Vardy, Engineering Services Ltd., Technical, Watts, World Mining, McGraw-Hill Inc., Gerard, Anglo American Corp., Bouchard & Co., Dyer, Timmins, and Loeb. These defendants are liable for this loss under Rule 10(b)-5 of the Securities

Exchange Act. Defendants Bache, Chartered, Davidson, Dominek, Edwards, Merrill, Moseley, Muller, Oswald, Pressman, Weis, and Wood share this liability to the extent of their knowledge of and participation in the events alleged in this count. However, the latter group of defendants may possibly be deemed the victims of a fraud perpetrated by the former group of defendants.

182. Plaintiff is not liable for trading losses, if any, that he may have suffered in Javelin.

183. Plaintiff is entitled to judgement in the amount of his trading losses up to $170,000 and damages for loss of business, plus punitive and exemplary damages.

COUNT III

Section 13(a) of the Exchange Act and the rulespromulgated thereunder

184. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 183 hereof.

185. Javelin has filed 10-K, 8-K, and 10-Q reports with the Securities & Exchange Commission. These reports contain financial statements certified by Lee & Martin.

186. It is impossible to determine from these financial statements what the financial position of Javelin is. These statements appear to be invalid on their face in that various sums and totals on these financial statement do not correspond with figures in previous financial statements of Javelin or in the press releases made by Javelin.

187. Javelin is liable to the Receiver General of Canada

in the amount of $535,518 for funds paid by Javelin to Doyle in contravention of a third party demand by the Receiver General of Canada.

188. This sum of $535,518 is not properly reflected in the December 31, 1972 balance sheet of Javelin which is contained in Javelin's 1972 10-K filing and its annual report.

189. Defendant Doyle still owes Javelin $3,000,000 as a result of a promissory note dated in 1963. This $3,000,000 is not carried as an asset on the December 31, 1972 balance sheet of Javelin.

190. The December 31, 1972 balance sheet carries an item entitled "Receivable under Javelin-Wabush Iron Contract:" $24,655,393. This is not an actual receivable item. It is offset by a corresponding liability item and its sole purpose is to inflate the balance sheet of Javelin in order to permit Javelin to meet the continued listing requirements of the AMEX.

191. The same balance sheet carries an item entitled "Balance due-sale of linerboard project:" $4,263,405. There have been numerous public statements by both Javelin and the Government of Newfoundland concerning this item. The Government of Newfoundland has refused to pay this amount. The fact that this is a contingent claim is not disclosed in the Javelin annual report.

192. The same balance sheet carries as an asset an investment of $1,965,148 in Dominion Jubilee. This statement fails to disclose that Dominion Jubilee is a worthless shell corporation controlled by Doyle.

193. The balance sheet also carries an item entitled "Mineral and oil rights, leases, patents and concessions including development costs:" $14,666,953. It is impossible to determine what this figure represents.

194. The December 31, 1972 balance sheet shows total assets of $73,279,725. In reality the liquid assets of Javelin are nominal. Javelin has a negative net worth.

195. The 1972 income statement of Javelin show gross income of $4,437,132.

196. This sum represents amounts paid by Pickands, Mather & Co. as a result of its position as managing agent of the Javelin-Wabush Iron Ore Contract.

197. In reality Javelin received little if any of this income. These royalties have been assigned to pay obligations of Javelin extending through 1979. Any excess funds are paid to creditors of Javelin.

198. The income statement shows a net loss before minority interest of $446,685. Hoever, Javelin also reports net income for the year of $13,293. No reasonable explanation is given to reconcile these two conflicting figures.

199. On or about August 7, 1972 Javelin filed a 10-K report for the year ending December, 1971. This report was delinquent by four months. The report was based on an unaudited balance sheet prepared by Javelin about two weeks earlier.

200. As a result of this unaudited balance sheet defendant AMEX decided to permit Javelin shares to resume trading on the AMEX.

201. It took Lee & Martin less than two weeks to complete

their audit of Javelin and to certify this balance sheet.

202. It is clear from the lack of timeliness of the audit that Lee & Martin did not use and could not have used proper accounting methods in preparing this financial statement.

203. In certifying this report and other Javelin reports, Lee & Martin used the rubber stamp method of accounting.

COUNT IV

Sections 14(a) of the Exchange Act and Rules 14(a)-9 and 14(a)-101 promulgated thereunder

204. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 203 hereof of the complaint.

205. Javelin did not hold an annual meeting for almost two years in order to avoid sending a proxy statement to its shareholders.

206. The proxy statement sent by Javelin pursuant to its annual meeting of May 9, 1973 failed to disclose material information as required by Rules 14(a)-9 and 14(a)-101 promulgated under Section 14(a) of the Exchange Act.

COUNT V

Section 13(d) of the Exchange Act

207. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 206 of this complaint.

208. Defendant Javelin, Doyle, and Anglo American Corp. have failed to make timely disclosures of the ownership of and trading in Javelin by Doyle and Anglo American Corp. It is not known who has physical possession of Doyle's shares and

who has the voting rights to them. It is not known how many Javelin shares were purchased, sold, or distributed by Javelin, Doyle, and Anglo American Corp. during 1973.

COUNT VI

Sections 9(a)(1), 9(a)(2), 9(a)(4), and 9(a)(6) of the Exchange Act and the rules promulgated thereunder.

209. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 209 hereof.

210. Throughout 1973 defendants Javelin, Doyle, AMEX, Timmins, Dyer, Loeb, John Bouchard and Bouchard & Co. conspired to manipulate the market in Javelin shares by creating a misleading appearance of active trading by inducing the purchase of Javelin by others, by making false or misleading statements about Javelin, and by pegging, fixing, or stabiling the price of Javelin.

211. Defendant Bouchard & Co. and John Bouchard recommended the purchase of Javelin shares through the use of false and misleading statements.

212. Defendants Bouchard & Co., Timmins, Dyer, and Loeb accounted for most of the trading of Javelin on the American and Montreal Stock Exchanges.

213. During 1973 on numerous occasions defendant Timmins entered the market during the last 15 minutes of trading and purchased a large quantity of Javelin shares in order to stabilize the price of Javelin.

214. On May 9, 1973 defendant Loeb purchased a block of 10,000 Javelin shares at the close in order to peg the price of

Javelin at or above 8. The next morning Loeb sold out these same shares at a substantial loss.

215. As the specialist in Javelin Dyer was required to notify the AMEX of possible market manipulation in Javelin.

216. Dyer failed to make a proper notification.

217. Defendant Timmins failed to file reports with the AMEX showing the disproportionate amount of trading in Javelin by Timmins.

218. Defendant Doyle purchased and sold Javelin shares through nominee accounts with Bouchard & Co. in order to manipulate the price of Javelin.

219. Defendant Dyer, Timmins, Loeb, and Bouchard & Co. conspired to peg the price of Javelin at a level to permit the owners of Javelin shares held in margin accounts to hold their stock without putting up additional margin. This was done in cognizance of the fact that many brokerage firms do not give any value to margin securities selling at or below $5 or $6 per share excluding fractions.

COUNT VII

Section 11(a) and 11(b) of the Exchange Act and Rules 11(a)-1 and 11(a)-2 and Rules of the American Stock Exchange promulgated thereunder.

220. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 219 hereof.

221. Defendant AMEX failed in its reponsibility to regulate

defendant Dyer, the specialist in Javelin and defendant Timmins, floor trader in Javelin.

222. Defendant Timmins made excessive purchases and sales of Javelin shares.

223. Defendant Dyer failed to properly supervise trading in Javelin shares.

COUNT VIII

Common Law and Pendent Jurisdiction

224. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 223 hereof.

225. Plaintiff has a claim under common law against S & P for negligance in disseminating erroneous financial information on Javelin.

226. Plaintiff has a claim against defendant Dow and Pinkerton for negligance in permitting untrue news releases to be reported on the Dow Jones News Service and in the Wall Street Journal.

227. Plaintiff has a common law claim against defendants [illegible], Dyer, Timmins, Anglo American Corp., John Bouchard, Bouchard & Co. and Doyle as the ultimate purchasers the Javelin shares sold by plaintiff.

228. Plaintiff has a common law claim against Lee & Martin and Lee / Martin for negligance in failing to make it clear who was doing the auditing for Javelin and for holding themselves out to be connected with each other.

COUNT IX

Violation of the injunction of September 25, 1958

229. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 228 hereof.

230. On September 25, 1958 defendants Javelin and Doyle were enjoined by consent from violations of various security laws. During 1973 defendants Javelin and Doyle repeated all of the actions which led to the 1958 injunction.

231. The allegations in this complaint state numerous violations of the 1958 injunction.

COUNT X

Sections 6, 7, 15(c)(-1), 15(c)(-2), 15(c)(-3), 15A of the Exchange Act and Rules 8(c)-1, 15(c)2-1, 15(c)3-3, 10(b)-3, and Rules of the New York Stock Exchange, the American Stock Exchange, and the National Association of Securities Dealers.

232. Plaintiff repeats and realleges each and every allegation in paragraph 1 through 231 hereof.

233. Defendant AMEX, Bache, John Bouchard, Bouchard & Co., Timmins, Chartered, Davidson, Dominek, Dyer, Edwards, Loeb, Merrill, Moseley, Muller, Oswald, Pressman, Weis, Wood, Gerard, Foote, Aronson, and Della are liable under this count.

234. Sometime in August, 1973 defendant Gerard or another officer or officers of the AMEX contacted defendant Bache, Chartered, Dominek, Edwards, Loeb, Moseley, Muller, Pressman, Wood, and Aronson regarding trading by plaintiff in Javelin.

235. Said officers of the AMEX told these brokers to cancel or close out all contracts by plaintiffin Javelin immediately.

236. Said AMEX officers contacted defendants Loeb, Timmins, and Dyer to ask them to cancel or hold off on all buy-ins of Javelin.

237. The buy-ins in question were originated by defendant Loeb. Defendant Timmins retransmitted many of the buy-ins. Loeb and Timmins agreed to cancel the buy-ins.

238. The AMEX office instructed the AMEX members in question to violate Rule 15(c)3-3 and other rules promulgated under the Exchange Act by borrowing Javelin shares to clear up their fails.

239. This unusual action by the AMEX led to a mass cancellation of all Javelin contracts involving plaintiff.

240. After these trades were cancelled, certain brokers contacted plaintiff and demanded that plaintiff pay the difference between the contract price and the market price of Javelin shares. Some brokers harassed and coerced plaintiff or resorted to fraud and larceny in order to obtain property of plaintiff.

241. Ed Muller and Marvin Weiselberg, partners of defendant Muller & Co., alternated visits and telephone calls to the office of plaintiff and did various things to coerce plaintiff to turn over property to them." Finally, when Ed Muller and his son stayed in plaintiff's office for morethan an hour and a half and refused to leave the office, plaintiff was forced to call the New York City Police in order to have them forcibly removed. An officer of Chartered New England Corp. was present when it was necessary for him to call the police on Muller.

242. On August 15, 1973, not realizing that all of these contracts had been cancelled, plaintiff borrowed 1000 shares

of Canadian Javelin Ltd. for delivery to defendant Edwards. Edwards had not made any demand for delivery of the shares.

243. Plaintiff called the offices of Bob Della, cashier at Edwards, to request that plaintff be allowed to deliver the 1000 shares of Canadian Javelin Ltd. against immediate payment of about $12,000 in accordance with the NASD rules and the custom and practice of the securities industry. A clerk who worked for Mr. Della agreed to accept the delivery and to pay the agreed upon sum upon delivery. Accordingly, plaintiff personally delievered these shares to the offices of Edwards. The clerk at the receive window took the shares and told plaintiff it would take about an hour to prepare the check. While waiting for the check plaintiff returned to his office and there

he received a telephone call from Arthur Foote, a managing partner in Edwards & Hanly. Foote told plaintiff that he, Foote, had instructedhis cashiers department not to pay plaintiff the money and not to return the shares to plaintiff. Plaintiff demanded that Edwards return the shares to him. This demand was refused.

244. Foote referred plaintiff to defendant Aronson. Plaintiff demanded that Edwards return the shares to plaintiff. Aronson refused to return the shares.

245. This illegal act by Edwards caused a severe financial crisis to plaintiff. He sought aid from the NASD, the S.E.C., the New York Stock Exchange, the AMEX, the New York City Police, the Disttict Attorney, and the U.S. Attorney. All of these agencies referred plaintiff to the courts. Subsequently,

plaintiff filed a formal complaint with the NASD in order to obtain recovery of the shares. Edwards responded by commencing an action in the New York State Supreme Court and obtained an order of attachment signed by Judge Vincent A. Lupiano. Edwards then turned over to the Sheriff the shares it had illegally converted from plaintiff in order to satisfy the order of attachment. At the time it turned over the shares Javelin was selling for 18. Plaintiff called the attorneys for Edwards and asked them to at least sell the shares in order to obtain the benefit of the high price of Javelin. However, the shares were never sold.

246. As a result of these events including the actions of defendant Edwards, plaintiff was forced to close his office and go out of business. His last day in business was August . On that day he sent a telegraphic message to the S.E.C. pursuant to rule 17(a)-11 informing them that he was closing his business as a result of actions undertaken by Edwards Manly. Under the circumstances, it would have been a violation of the S.E.C. Rules for plaintiff to stay in business. His credit rating and the professional reputation he had established as a result of three and one half years in the securities business had been destroyed.

247. Excluding the 1000 shares of Canadian Javelin Ltd. delivered to Edwards and the other litigation stemming from these events, plaintiff has suffered an out of pocket loss of about $45,000. The represents approximately $14,000 charged to his account at defendant Wood, $8000 in cash and securities charged against his account at defendant Chartered, $10,000 in cash and securities charged against his account at defendant

Muller, a mark to the market of $8300 paid to defendant Edwards for a stock loan, a buy-in difference check paid to Metroland Securities in the amount of $2412.50 and a mark to market and difference check paid to Dishy, Eason & Co. in the amount of $1000.

248. Defendant Chartered, Pressman, and Weis commenced civil actions in the New York state courts to recover losses allegedly resulting from trading in Javelin.

249. Plaintiff is entitled to recover out of pocket losses in the amount of $45,000 and to be indemnified from any additional trading losses in Javelin, if any. Plaintiff is entitled to declaratory judgement or other appropriate relief.

250. In addition, plaintiff has been damaged to the extent of $2,000,000 for being forced to close his business, for the loss of business thereby, for loss of credit rating, and for harassment by the various defendants, the F.B.I., and the S.E.C.

251. Plaintiff is entitled to punitive and exemplary damages in the amount of $5,000,000 especially inview of the history of securities fraud involving Javelin and other defendants.

252. Plaintiff is entitled to judgement in the amount of $18,000 from defendants Edwards, Della, Foote, and Aronson for the value of the 1000 Javelin shares converted by defendant Edwards.

253. Plaintiff is entitled to judgement in the amount of his loss of profits including the profits he would have made in the trading of Javelin.

WHEREFORE, plaintiff demands:

I. Judgement in the amount of $2,063,000 actual damages plus declaratory judgement in the amount of $125,000 plus punitive and exemplary damages in the amount of $5,000,000 plus costs and interest.

II. That this action be tried by jury.

Samuel H. Sloan

SAMUEL H. SLOAN

Sworn to before me this
29 day of December, 1973.

Eric Eichner

ERIC EICHNER
NOTARY PUBLIC, State of New York
No. 6161470 Qual. in New York County
Term Expires March 30, 1974

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN, Plaintiff, -against- CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN; STUART PINKERTON; STANDARD & POOR'S CORP.; BISON PETROLEUM & MINERALS LTD.; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; MIAMI HERALD; PICKANDS, MATHER & CO.; PETER LA RUSH; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS. & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINEK & DOMINEK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER & SMITH; F.S. MOSELEY, ESTABROOK; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.; Defendants.	73 Civil 3801 73 Civil 4403 AFFIDAVIT IN IN SUPPORT OF MOTION TO DISMISS THE COMPLAINT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Neil D. Baron, being duly sworn, deposes and says:

1. I am an attorney at law and member of the law firm of Booth & Baron, attorneys for defendant Standard & Poor's Corporation ("Defendant") herein, and I am familiar with the facts and proceedings heretofore had herein, and make this Affidavit in support of Defendants' Motion to Dismiss the Complaint.

2. Plaintiff commenced this action as to Defendant by the service of a Summons and Complaint on September 9, 1973, under civil action file no. 3801/73. Shortly thereafter, Plaintiff served a second Summons and Complaint under civil action no. 4403/73,

which, according to Plaintiff was intended to be an amendment to the first Complaint. During argument of Defendants' Motion to Dismiss, all parties served agreed to treat it as such. Subsequently thereto, on November 7, 1973, Plaintiff served an amended Complaint bearing both civil action nos. 3801/73 and 4403/73.

3. On September 27, 1973, Defendant served upon Plaintiff a Notice of Motion and Motion to Dismiss the Complaint which was later made applicable to all the above Complaints.

4. On November 19, 1973, the Court granted Defendants Motion to Dismiss with leave for the Plaintiff to amend within twenty days. As of this date, Defendant has not been served with an amended Complaint.

5. I respectfully refer the Court to Defendants' initial Motion to Dismiss together with my Affidavit and legal brief in Support thereof, and to Defendants' Supplemental Affidavit sworn to by me on November 13, 1973.

6. Accordingly, Defendant hereby respectfully requests that the Court enter an order dismissing all Complaints in the above mentioned action as to Defendant.

NEIL D. BARON

Sworn to before me this 3rd
day of January, 1974.

NOTARY

FILED
JAN 1 1974
D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

Plaintiff, :

-against- :

CANADIAN JAVELIN LTD., et al. :

Defendants. :

- x

AFFIDAVIT

~~73 Civil 3801 DBB~~ 73 Civil 4403

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MICHAEL J. MURPHY, being duly sworn, deposes and says:

I am a member of this Bar and an attorney associated with the firm of Lord, Day & Lord, attorneys for the defendant American Stock Exchange in the above-caption matter.

For the reasons set forth in the notice of motion of defendant Standard & Poors Corp., dated January 4, 1974 and the affidavit of Neil D. Baron, sworn to on January 3, 1974, and for the reasons set forth in the notice of motion of defendants Canadian Javelin Ltd., Bison Petroleum & Minerals Ltd., Canada Permanent Trust Company and William M. Wismer, and the affidavit of Irving L. Golomb in support of said motion, sworn to on January 3, 1974, defendant American Stock Exchange joins in said motions to dismiss this action.

Michael J. Murphy

Sworn to before me this
10th day of January, 1974.

NOTARY PUBLIC

A-122

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
JAN 9 1974
S.D. OF N.Y.

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civ. 4403 (DBB)

DEFAULT JUDGMENT

74,044

Upon the affidavit of Lawrence W. Nelson, sworn to this 7th day of January 1974, and upon the failure of plaintiff, Samuel H. Sloan, to answer the counterclaim of defendant, Bache & Co. Inc., it is

ORDERED that defendant, Bache & Co. Inc., have default judgment in the amount of $31,606.03 against Samuel H. Sloan whose address is 120 Liberty Street, New York, New York 10006.

MICROFILM
JAN 9 1974

Dated: New York, New York
January 9, 1974

Raymond F. Burghardt
Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

- against -

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO; JOHN C. DOYLE; WILLIAM M. WISNER; LEE & MARTIN; STUART PINKERTON; STANDARD & POOR'S CORP.; BISON PETROLEUM & MINERALS LTD.; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; MIAMI HERALD; PICKANDS, MATHER & CO.; PETER LA RUSH; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINER & DOMINER INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB RHOADES & CO.; MERRILL LYNCH, PIERCE, FENNER & SMITH; F. S. MOSELY, ESTABROOK; MULLER & CO; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.,

Defendants.

73 Civil 3801 DBB
73 Civil 4403
DBB

SUPPLEMENTAL AFFIDAVIT

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

NEIL BARON, being duly sworn, deposes and says:

1. I am an attorney at law, a member of the law firm of Booth & Baron, attorneys for defendant Standard & Poor's Corporation ("Defendant") herein, and am familiar with the facts and proceedings heretofore had herein, and make this affidavit in support of Defendant's Motion to Dismiss the Complaint.

2. Defendant has been served with three Complaints in this action, all of which were, pursuant to Defendant's motion, dismissed by the Court on November 19, 1973, with leave for the plaintiff to amend within twenty days. As of the date of this affidavit, Defendant has not been served with an amended Complaint.

3. On January 7, 1974, Defendant's parent company, McGraw-Hill, Inc., was served with an amended Complaint (the fourth Complaint), naming Defendant and McGraw-Hill, Inc., among

many others, as defendants. The only substantial changes as to Defendant contained in the fourth Complaint were the deletion of an allegation of conspiracy and the addition, in Paragraph 133, of an allegation that Defendant "translates the earnings report of Javelin in such a way as to embellish them." Plaintiff also alleges in the same Paragraph that Defendant "knew or should have known that the earnings report were false and misleading". Further, Paragraph 225 of the fourth Complaint states in its entirety "Plaintiff has a claim under common law against S&P [Defendant] for negligence in disseminating erroneous financial information on Javelin."

4. Defendant responded to each of plaintiff's Complaints with affidavits and/or a legal brief setting forth the legal inadequacies of each Complaint. Plaintiff, having been educated by Defendant's responses to his pleadings, served amended Complaints, and in each instance the Court dismissed the Complaint as to Defendant. Now plaintiff has drawn, but not served on Defendant, a fourth Complaint, which leaps to the conclusion that Defendant embellished Javelin's earnings report and knew or should have known that such report was false and misleading. It appears on the face of all the Complaints that plaintiff, having three times been put on notice that he did not have the facts sufficient to state a claim upon which relief could be granted, in desperation asserted the conclusion of

embellishment and actual or constructive knowledge. It is this type of reckless pleading that Rule 9(b) of the Federal Rules of Civil Procedure is intended to prevent. The recklessness of plaintiff's allegations of embellishment and knowledge are substantiated by the public knowledge that for the three months ended March 31, 1972 Javelin reported a loss of 4¢ per share, and for the year ended December 31, 1972 reported earnings of 7¢ per share. Basic arithmetic indicates that Javelin earned 11¢ per share for the nine months ended December 31, 1972. The latter figure, when combined with a loss of 8¢ per share for the three months ended March 31, 1973, results in earnings of 3¢ per share for the twelve months ended March 31, 1973, the figure reported by Defendant according to Paragraph 133 of the fourth Complaint. In light of the circumstances peculiar to this case, it is respectfully submitted that the allegation of embellishment (which does not necessarily imply scienter) and the conclusion that Defendant knew or should have known, does not satisfy the requirements of Rule 9(b).

WHEREFORE, inasmuch as plaintiff has not served Defendant with an amended Complaint pursuant to the Court's order of November 19, 1973 (and if the Court accepts the fourth Complaint as to Defendant, inasmuch as the fourth Complaint is still insufficient to state a claim as against Defendant under the Federal Securities Laws) it is respectfully requested that judgment be entered dismissing this action against Defendant, with costs.

Sworn to before me this
9th day of January, 1974.

Notary Public

NEIL D. BARON

Rd1

SAMUEL H. SLOAN,

Plaintiff

v.

CANADIAN JAVELIN,

Defendant

73 Civ 4403

January 14, 1974
9:45 AM
New York, New York

BEFORE: Dudley B. Bonsal,

District Judge

Rd2

(In open court)

THE COURT: I want to note for the record that Mr. Sloan, who is the plaintiff pro se in this action, is not here and that Mr. Richard Ilson--you say you work in Mr. Sloan's office?

MR. ILSON: I work for him part time.

THE COURT: What do you do?

MR. ILSON: I type for him, I file motions in the court.

THE COURT: You say you had a conversation with Mr. Sloan?

MR. ILSON: On the telephone yesterday.

THE COURT: Where was he?

MR. ILSON: He was in Stockholm.

THE COURT: And you are not a member of the bar?

MR. ILSON: No.

THE COURT: Well, gentlemen, I don't think it would be fruitful to hear much argument this morning. I think I have all your papers. I, too, have some serious problems with the last complaint. I think some of you have pointed out it was not served within the time directed by the Court.

I also see there is a demand in the complaint for punitive damages. I think in this Circuit punitive damages are not granted in actions under the Securities Act and the

rd3

Securities Exchange Act.

Plaintiff also seeks damages because he says he was driven out of business. I am not sure that that is a proper measure of damages in a 10(b)5 action.

I have difficulty in sofaras the complaint seeks to state a cuase of action against Dow Jones, the stock exchanges, various other publishers of financial information, and I have trouble as to whether it states any action against some of these brokers.

What I think I would like to do, gentlemen, is to take your papers and I will review this again. I want to give you some general observations here.

Is there anything particular, Mr, Ilson, Mr.Sloan asked you to say today?

MR. ILSON: He said he filed a new amended complaint December 29th.

THE COURT: That is the one we are talking about.

MR. ILSON: Because Canadian Javelin was never served and yet there was a motion today on tha complaint.

THE COURT: I don't know about that. Did he ask you to say anything else?

MR. ILSON: No.

THE COURT: That is all?

MR. ILSON: Well, He said he couldn't make it today. There was only one motion he knew about before he left.

Rd4

THE COURT: I see.

MR. SARSHAW: Your Honor, I appear for Canadian Javelin.

THE COURT: You name is?

MR. WARSHAW: John K. Warshaw, for Canadian Javelin. It is part of our motion that the complaint was never properly served.

THE COURT: There are a number of grounds with regard to this complaint. I also understand that there is a proceeding brought by the SEC against Canadian Javelin.

MR. WARSHAW: That is a separate matter, Your Honor.

MR. GREEN: There is also a proceeding pending against Mr. Sloan by the Secutiries and Exchange Commission.

THE COURT: I think you have an injunction, is that correct?

MR. BARRON: I represent Stand and Poors Corporation. There was one additional point of law, a basic point of law I want to make. I would like to make it now , if I may.

THE COURT: Go ahead.

MR. BARRON: With respect to Stand and Poors Corporation, the plaintiff alleged that some of the information disseminated by Stand and Poors caused the stock of Canadian Javelin to rise. I think there is an inferenece to be gathered from this that plaintiff was hurt because he was in

Rd5

a short position. I think that that does not satisfy the "in connection with" language of 10(b)5.

I theink the most liberal construction of that language is found in the Superintendent of Insurance against Bankers Live case, where Justice Douglas indicated that as long as the alleged fraud touched thesale or purchase of a security, that the "in connection" language would be satisfied.

I want to point out in that case it was implicit in the opinion that the alleged fraud did play a substantial part in the decision as to whether to purchase or sell a security.

In this complaint the plaintiff alleges that he was hurt because he was in a short position , indicating that the alleged fraud or publication in this case took place after the transaction--the subject transaction was affected.

So that is just one additional point of law I wanted to make, that the "in connection" language of 10(b)5 has not been satisfied in this particular cause of action.

Accordingly, we move again that the complaint be dismissed.

MR. GORDON: I represent Edwards and Hanley and I have a somewhat different problem. Friday afternoon the process server hired by Mr. Sloan showed up at a big luncheon out on

Long Island and broke it up by serving one of our partners personally with, I think, a further amended complaint naming that partner and two other employees of Edwards and Hanley as personal defendants.

Now, I can characterize it as nonsense. If your Honor has read the papers I submitted, we have a proceeding going on in the State court. One of the people that Mr. Sloan has now named as an individual defendant is a person he alleges he tried to call at Edwards and Hanley and could not reach him and then spoke to someone else. He still names this individual he tried to reach as an individual defendant.

My motion as of the current time covers an amended complaint which doesn't have these three individuals as defendants in there.

To that extent I suppose I have to amend my motion and would like to do so orally now.

THE COURT: You may make it now, you amend your motion

MR. GORDON: Thank you, so as to include the individual defendants who I am advised are named Raymond Aronson, Bob Della, and Arthur Foote.

THE COURT: Thbak you. Anybody elese?

MR. TOBOROFF: Leonard Toboroff. I represent Esterbrook and Charter New England.

Along with what Mr. Barron said, if he went into it a

Rd7

litttle further he would have found that one of the problems with Sloan, as far as the SEC is concerned, he shorted the Canadian Javelin without an uptake. If you get into that, if you are interested in that factual question, you will' probably find that to be the case. That might be another problem.

THE COURT: All right. Anybody else?

MR. GREEN: I have responded to a proposed amended complaint that was served with Mr. Sloan's answering paper on my original motion which your Honor denied or put over, givin him 20 days in which to file an amended complaint to comply.

I have never been served with an amended complaint. I assume the amended complaint I responded to in my reply affidavits is othe one I would be served with.

MS. FILSON: M. Filson for Dow Jones. Dow Jones has answered two complaints, an original complaint and then what purported to be an amended complaint. We have now been served with a third complaint, also purporting to be an amended complaint.

We are at a loss as to know what to do with that. We are somewhat concerned that if we should answer this one, there will be another one and we would like to make a motion to strike this pleading because we feel harassed.

THE COURT:,You are making an oral motion to dismiss?

Rd8

MS. FILSON: Yes.

THE COURT: I have that on the record.

MR. FRIEDBERT: My name is Harry Friedberg. I represent Muller. We were served with a November amended complaint and not a December one. We were before your Honor and He orally told Mr. Sloan from the bench to serve his amended complaint on or before December 10th or else he would dismiss our action.

We moved to dismiss because he had improperly served. He then, after you had dismessed his motion, served us through the Marshall's office witha November compalint and we were wainting for the December 10th complaint--

THE COURT: You haven't got it.

MR. FRIEDBERG: I have no December 29th complaint. I too would like to join in a motion to dismiss

THE COURT: All right, gentlemen, thank you. I think that is as far as we can go.

I wish you would tell Mr. Sloan when he comes back from Stockholm that when he starts proceedings in this court he ought bo be around to pursue them. It does not help to start something and not be here.

thank you, gentlemen.

NEW YORK, N. Y.

TELEPHONE (212) 344 0480
CABLE: LORDATTY, NEW YORK
TELEX: 12 8210

January 21, 1974

Mr. Samuel H. Sloan
120 Liberty Street
New York, New York 10006

Re: Sloan v. Canadian Javelin, Ltd., et al. - 73 Civ 3801, 73 Civ 4403

Dear Mr. Sloan:

On behalf of our clients The American Stock Exchange and Steven L. Gerard we hereby return what purports to be yet another amended complaint which you apparently caused to be served on January 16, 1974.

Since the Court still has before it motions to dismiss this action and since you have apparently served the enclosed complaint without leave of Court or consent of the parties, we shall treat it as being without legal effect.

Very truly yours,

LORD, DAY & LORD
Attorneys for Defendants
American Stock Exchange
and Steven L. Gerard

MJM:lg
cc: Hon. Dudley B. Bonsal
Diamond & Golomb, P.C.
Booth & Baron
Patterson, Belknap & Webb

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN; STUART PINKERTON; STANDARD & POOR'S CORP.; BISON PETROLEUM & MINERALS LTD.; ROBERT-BENOIT MAJOR; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; THE MIAMI HERALD; PICKANDS, MATHER & CO.; WRIGHT ENGINEERS, LTD.; TECHNICAL ECONOMISTS LTD.; WATTS, GRIFFIS & MCQUAT LTD.; JOSEPH R. SMALLWOOD; ANGLO AMERICAN CORP.; PETER JEFFREYS; ENGINEERING SERVICES LTD.; OLIVER L. VARDY; A.I.S. RESOURCES LTD.; WORLD MINING; MCGRAW-HILL, INC.; STEVEN L. GERARD; ARTHUR FOOTE; ROBERT DELLA; RAYMOND ARONSON; BACHE & CO.; BOUCHARD & CO.; BURNS BROS. & TIMMINS, INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINICK & DOMINICK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER & SMITH, INC.; F.S. MOSELEY, ESTABROOK, & CO., INC.; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM LTD.; PRESSMAN, FROLICH & FROST, INC.; WEIS & BAER, INC.; WOOD, WALKER & CO.; INSTITUTIONAL SERVICES (DEUTSCHLAND) GmbH;

Defendants.

~~73 Civ 1091~~
73 Civ 4401

NOTICE OF MOTION AND MOTION TO DISMISS THE COMPLAINT

To: Samuel H. Sloan, pro se
120 Liberty Street
New York, New York 10006

PLEASE TAKE NOTICE that upon the annexed Affidavit of Neil D. Baron, Esq., sworn to on January 25, 1974, defendant McGraw-Hill, Inc. ("Defendant") will move this Court at a Term for Motions to be held in Room 1505 of the United States Court House for the Southern District of New York, at Foley Square, New York, New York 10007, on the 11th day of February, 1974 at 9:30 a.m. in the forenoon of that day, or as soon thereafter

as Counsel can be heard, for an order dismissing the Complaint against Defendant, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure on the grounds that:

1. The Court lacks jurisdiction because it appears on the face of the Complaint that the alleged claim does not arise under the Constitution, laws or treaties of the United States, as is alleged therein; and

2. The Complaint fails to state a claim against Defendant upon which relief can be granted.

Yours, etc.,

Booth & Baron

Booth & Baron
Attorneys for Defendant
McGraw-Hill, Inc.
122 East 42nd Street
New York, New York 10017
(212) 682-0903

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISMER; LEE & MARTIN; STUART PINKERTON; STANDARD & POOR'S CORP.; BISON PETROLEUM & MINERALS LTD.; ROBERT-BENOIT MAJOR; PAVONIA S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; THE MIAMI HERALD; PICKANDS, MATHER & CO.; WRIGHT ENGINEERS, LTD.; TECHNICAL ECONOMISTS LTD.; WATTS, GRIFFIS & McQUAT LTD.; JOSEPH R. SMALLWOOD; ANGLO AMERICAN CORP.; PETER JEFFREYS; ENGINEERING SERVICES LTD.; OLIVER L. VARDY; A.I.S. RESOURCES LTD.; WORLD MINING; McGRAW-HILL, INC.; STEVEN L. GERARD; ARTHUR FOOTE; ROBERT DELLA; RAYMOND ARONSON; BACHE & CO.; BOUCHARD & CO.; BURNS BROS, & TIMMINS, INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINICK & DOMINICK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER & SMITH, INC.; F.S. MOSELEY, ESTABROOK, & CO., INC.; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM LTD.; PRESSMAN, FROLICH & FROST, INC.; WEIS & BAER, INC.; WOOD, WALKER & CO.; INSTITUTIONAL SERVICES (DEUTSCHLAND) GmbH;

Defendants.

73 Civ. 3801
73 Civ. 4403

AFFIDAVIT IN SUPPORT OF NOTICE OF MOTION AND MOTION TO DISMISS THE COMPLAINT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Neil D. Baron, being duly sworn, deposes and says:

1. I am an attorney at law and member of the law firm of Booth & Baron, attorneys for defendant McGraw-Hill, Inc. ("Defendant") herein, and am familiar with the facts and proceedings heretofore had herein, and make this Affidavit in Support of Defendant's Motion to Dismiss the Complaint.

2. Plaintiff commenced this action as to Defendant by the service of a Summons and Amended Complaint on January 7, 1974.

Defendant has never been served with an original Complaint.

3. Defendant is a publisher whose publications consist largely of thirty-six trade magazines, twelve newsletters, two management and information services and one market and industrial research service.

4. In December of 1972, Defendant published an article (the "Article") regarding Canadian Javelin Ltd. ("Javelin") in one of its trade magazines -- The Engineering & Mining Journal. A copy of the Article is attached hereto as Exhibit A.

5. The allegations in the Complaint that pertain to Defendant, are as follows:

> "Defendant McGraw-Hill, Inc. is a publishing company." (¶ 37)
>
> " Defendant McGraw-Hill, Inc. is the publisher of 'The Engineering & Mining Journal'. The December 1972 Engineering & Mining Journal contained an article entitled 'Canadian Javelin Eyes Production at Major Copper Finds in Panama'." (¶ 150)
>
> "This article stated that the 1971 suspension of trading in Javelin came as a result of a previous article in the same publication. It further stated that: 'the question no longer seems to be if it will hit the target, but when.' This statement was false and misleading. McGraw-Hill, Inc. knew, or should have known, that the statement was false and misleading." (¶ 151)
>
> "A reprint of the article in The Engineering & Mining Journal was sent to all registered Javelin shareholders by defendant Wismer. McGraw-Hill, Inc. knew, or should have known, that this article was mailed to all Javelin shareholders in order to cause the price of Javelin to rise on the American Stock Exchange." (¶ 152)
>
> "If these are valid trading losses, the liability for them rests with defendants . . . McGraw-Hill, Inc. . . ." (¶ 181)

The Complaint further alleges:

"Plaintiff was at all times, between January and August of 1973, a short seller of Javelin shares. Plaintiff made numerous purchases and sales of Javelin shares during this period." (¶ 171)

Plaintiff's alleged short sales were subsequent to Defendants publication of the Article, which was clearly favorable to Javelin.

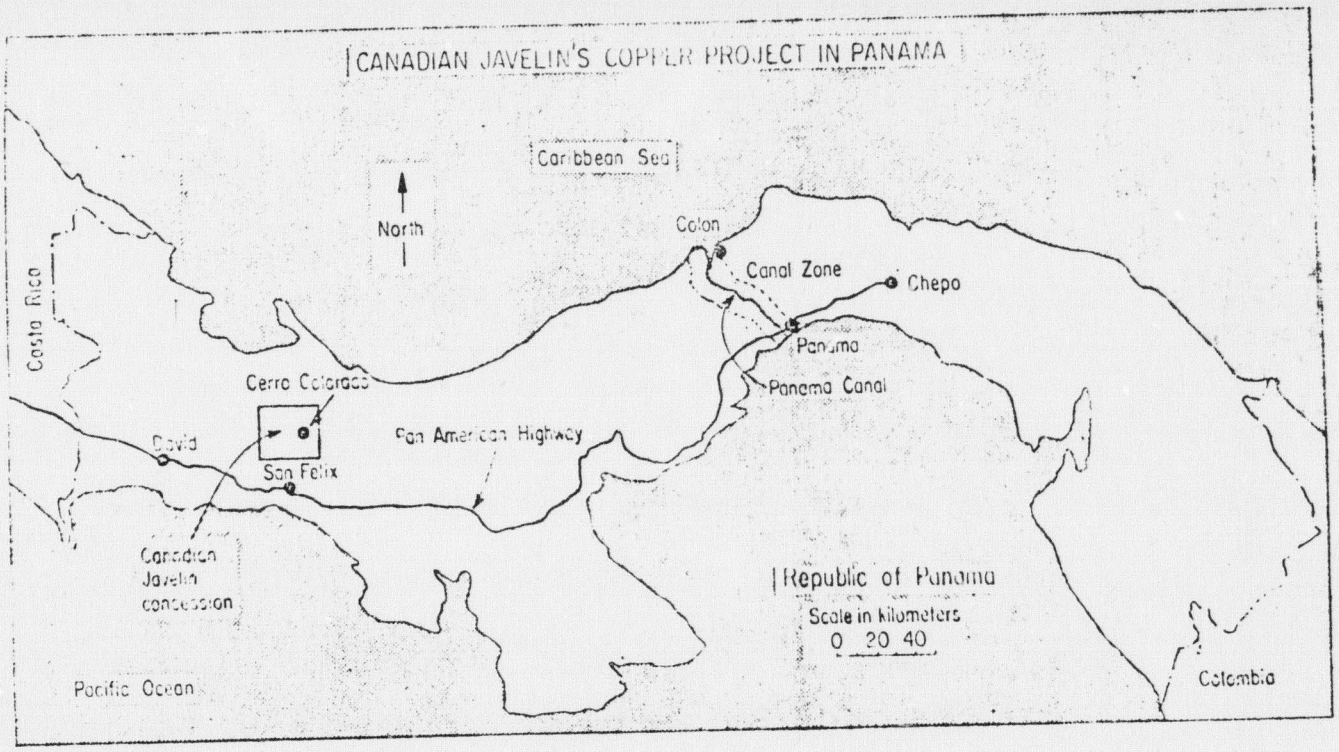
6. Nowhere does the Complaint allege that the Article, or any information contained therein, was ever communicated to him in any way, or that he ever heard, saw or read the Article or any excerpts therefrom.

NEIL D. BARON

Sworn to before me this
25th day of January, 1974.

NOTARY

MARIANNE J. FIRELLI
Notary Public, State of New York
No. 30-6302410 Qual. In Westchester Co.
Certificate filed in New York County
Commission Expires March 30, 1974



Canadian Javelin eyes production at major copper find in Panama

George P. Lutjen, Editor-in-chief

"WE'VE GOT BETTER THAN A BILLION TONS of copper ore here that we know of. It's time we started thinking about getting some rock in the box."

These words come from John A. Rozzini, vice president of Canadian Javelin Ltd., Montreal. The stocky engineer, a one-time professional hockey player, is standing in the core shack at the company's Cerro Colorado exploration project in the rugged mountains 185 mi west of Panama City, in the Republic of Panama. Surrounding him are the core samples of 65,000 ft of diamond drilling in 110 holes, which Javelin geologists estimate to indicate more than 1,100 million tons of ore containing 0.6% to 0.7% copper, with irregular values in molybdenum and precious metals.

The tonnage figure is even more impressive when you realize that full depth and lateral dimensions of the orebody are not yet known.

Rozzini's impatience to move into mining has been fueled by developments since May of 1971, when drill hole No. 78 intersected a zone of secondary enrichment. Subsequent drilling has revealed the zone to be a cap over the main orebody varying in thickness up to several hundred feet. On the flanks of the Cerro Colorado ridge it is close to the surface. At the center of the ridge, which peaks at a little over 4,600 ft, the zone has as much as 400 ft of cover (see section through the orebody, supplied by Canadian Javelin).

How big is the zone and how rich? "Indicated tonnage in the enriched zone as of mid-November is approximately 87 million tons," says Peter La Rush, Javelin's exploration manager, whose headquarters are in Panama City. "According to assays in the laboratories of the Government's Administration of Mineral Resources, the copper content averages a little better than 1.0%."

As is the case for the entire orebody, complete dimensions of the enriched zone are not yet known.

The geologic picture

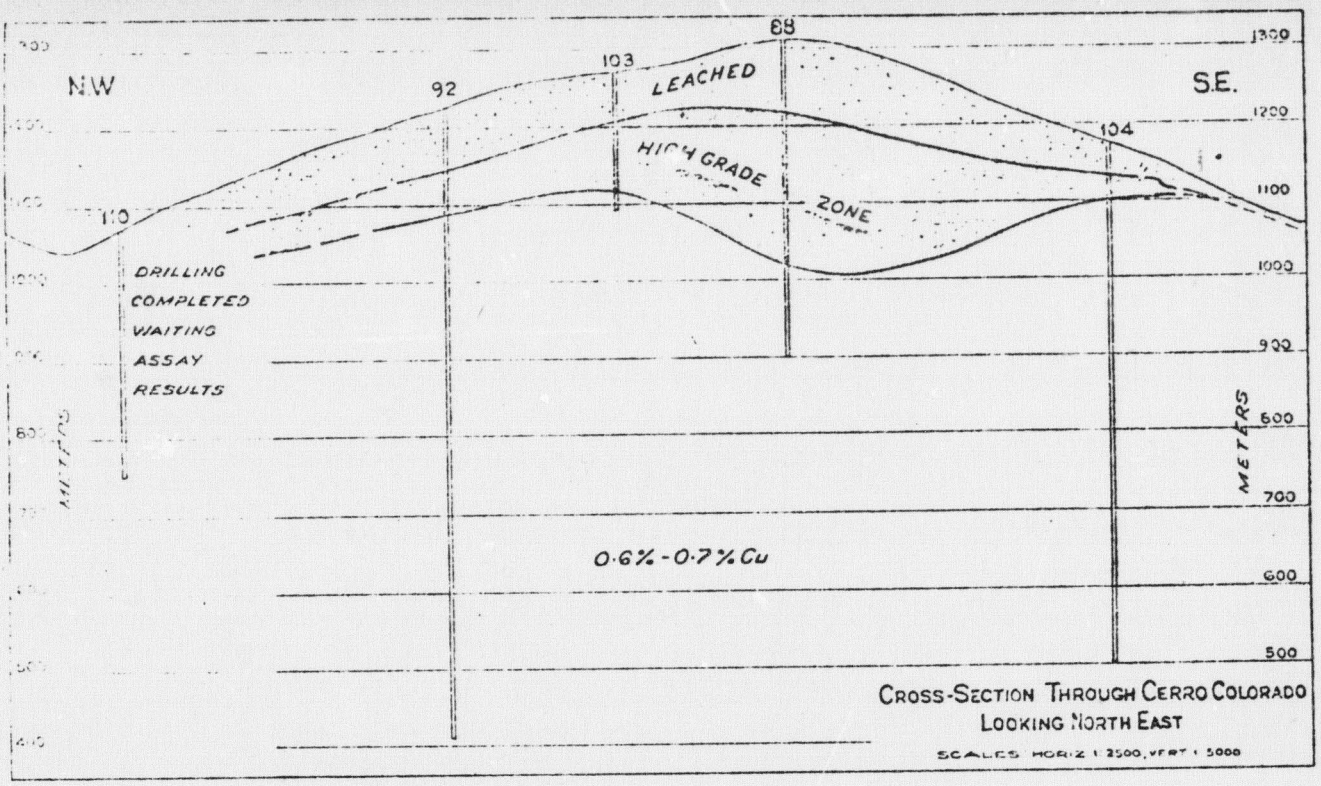
Host rock for the Cerro Colorado porphyry deposit is an andesite, one of whose features is extremely deep weathering — up to 400 ft. "We're still working out the geology," says Paul Kents, senior geologist at the camp, whose first trip into the site was by burro.

"As we see it now," continues Kents, "mineralization came in with a number of little coarse-grained intrusives. These 'pushers' were each capable of spreading mineralization 1,000 ft in any direction. There seem to have been several of these 'pushers.' The oldest and the youngest had little or no mineralization. The middle series carried the minerals."

As Kents goes on to describe it, there are two kinds of mineralization in the orebody — the primary mineralization, which came in with the intrusives; and the secondary, the result of hydrothermal alteration along the cracks. The enriched zone has both kinds of mineralization — with copper showing up as both chalcopyrite and chalcocite. The remainder of the orebody has only primary mineralization.

Two years and $3 million have been spent on exploring Javelin's 75,000-hectare concession (about 180,000 acres). Actually the concession is held under the name

herein, by delivering a true copy thereof to him personally. Deponent knew the person so served to be the person mentioned and described in said papers as the therein.



of a wholly owned subsidiary, Pavonia SA, but a name change is in the offing — probably to Javelin Copper Corp.

A company spokesman credits the arousal of interest in the area directly to John C. Doyle, founder of Canadian Javelin. Other business interests required frequent flights by Doyle into Panama, during which pilots reported wild aberrations in the compass whenever they were in the vicinity of Cerro Colorado. Geochemical studies followed, narrowing the interest to the present area.

To start the drilling two years ago, three Winkies were airlifted in. It turned out they were too light for the job, finding the going difficult through the breccia cover and penetrating to little more than 100 ft.

The Winkies were succeeded by three Boyles Bros. units, and then nine Longyears were added to permit use of sizes H, N, and B rod. Until the discovery of the enriched zone, drilling had been random, designed primarily to delineate the orebody. Now a 150-m grid is being followed.

But mere statistics do not show the extreme difficulty of operating in the almost inaccessible mountainous terrain. Testimony to the ruggedness of the area is the fact that it took six weeks to walk in a dozer from the Pan American Highway only 22 mi away. The route was selected on the basis of aerial photographs, and a crew of 15 men was employed to cut brush.

The only other conveyance on the property is a four-wheel-drive "Mule," which, like all other equipment and supplies, had to be airlifted in. Heavy equipment for the most part was lifted in by a big Huey helicopter rented from the Panama National Guard when available. All other supplies and equipment are flown in by a fixed-wing Stol with a payload of 1,600 lb.

As in the case of the contour paths hewn out of the side of the mountain every 100 vertical meters for geologic examinations and trenching, and like the drill sites and campsites, the air strip had to be cleared by hand.

For short moves, drill rigs are broken down and carried by the workers from one site to the other. Longer moves are made with the assistance of the Huey.

Responsibility for the Panama copper prospect belongs to John A. Rozzini, Canadian Javelin vice president.

At one time or another, as many as 200 native workers have been on the job, some having to walk 10 mi. Currently there are about 185 men working under the supervision of six technical personnel.

What happens next

In moving into the next stage of development of the Cerro Colorado orebody, Javelin is taking steps in several directions. First, Wright Engineers Ltd., of Vancouver, was retained this past summer to make a complete feasibility study of the project. The consulting firm's report, due by the close of the year, will cover all the requirements for starting mining operations in the 87 million-ton enriched zone capping the orebody — mine and mill designs,

Chief geologist, Paul Kents, first examined property two years ago, when a burro provided the only transportation.

Peter La Rush, manager of exploration operations is 15-year veteran with Canadian Javelin.

power considerations, location of port facilities, whatever infrastructure may be required.

Initial thinking of Javelin's engineers is in terms of a 25,000-tpd concentrator. This figure, of course, could change when actual capital investment required for the project has been pinned down. Because the mine site almost straddles the Continental Divide, port facilities on either coast are viable and selection will probably depend upon where most of the concentrate will be shipped. In any case, concentrates would move to the sea by pipeline.

Although Javelin's original intentions were to market a concentrate, construction of a smelter cannot be ruled out. At least one of several groups that have expressed an interest in Cerro Colorado copper likes the idea of smelting it in Panama.

To a large extent, determination of initial capital costs depends on the power situation. Right now there is none available in the mining area, and the company must be prepared to build its own facilities, probably at the port site. But the Government has plans to extend electrification in the Republic, and it may be possible to schedule expansion to make power available for sale in the Cerro Colorado area by the Government when the mine is ready for operation.

Another step to move development into the next phase is to accumulate more specific information about the enriched mineralized zone. To do this, nine of the 11 diamond drills on the property will concentrate on drilling the enriched zone within its presently known dimensions, to gather sufficient geologic information for mine planning. The other two drills will be used to probe for the actual lateral dimensions of the zone.

Also in the planning stage is the driving of two adits into the orebody, primarily for obtaining sufficient ore for metallurgical testing. One adit will be driven in from a stream bed at an elevation about 1,000 ft below the top of the orebody, the lowest starting point available adjacent to the site. The other adit will be started from one of the old drill sites about 500 ft higher up, or about halfway between the lower adit and the top of the orebody.

Another key project is to get a road into the property. "The eventual route will probably be pretty much the one we followed when we walked the dozer in," says Rozzini, who has been back and forth over the area in a helicopter many times. A local surveying company has been hired to stake the road in from San Felix, a few miles north of the Pan American Highway. The small town is presently used as a storage area by the company to lift in fuel and other supplies with a small chopper. The gravel road will be big enough to haul in equipment and supplies by truck and eliminate the more expensive airlift.

Meeting with the Government

With the Wright Engineers study in hand, plus its own concepts and other informational inputs, Javelin management will be in a position early next year to know just what they have to do to develop Cerro Colorado. At that point, they will be ready to begin discussions with the Panamanian Government on the next step.

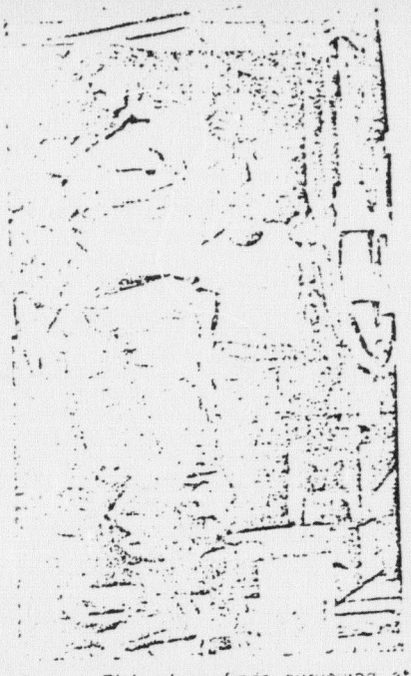
All along, officials of the Republic of Panama have been kept closely informed on progress at the project. In addition, as La Rush puts it, "They've got the best information there is. They do the analyses of all our cores in their own laboratories."

To many mining executives — especially in the US — these discussions with the Government are the critical point for the entire operation. There had been some skepticism over initial reports on the Cerro Colorado. Doyle and Canadian Javelin were involved in a legal and financial squabble with the government of Newfoundland over a liner board plant started by the company a few years back. In the US, the first news item in E/MJ on the Panama discovery brought an instant and vigorous inquiry from the Securities and Exchange Commission.

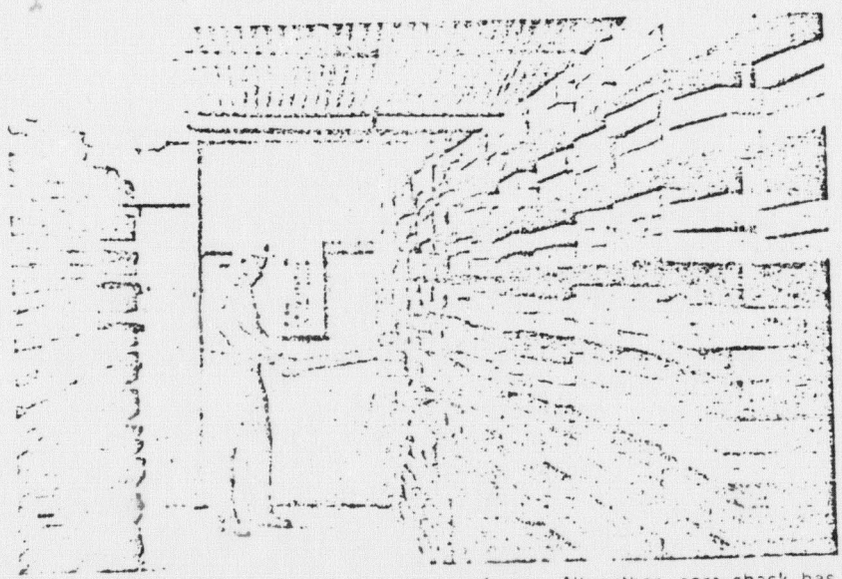
But the air of skepticism seems to have vanished — at least among the mining men who talked to E/MJ. Whether their words were, "That Doyle is lucky," or "Doyle sure has a nose for ore," they concede that "Canadian Javelin really has something there." And other companies are talking to Javelin — Kennecott, Standard Oil of Indiana, a group of Japanese companies led by C. Itoh, and a group from the UK.

Not too far from the Javelin concessions, UN teams

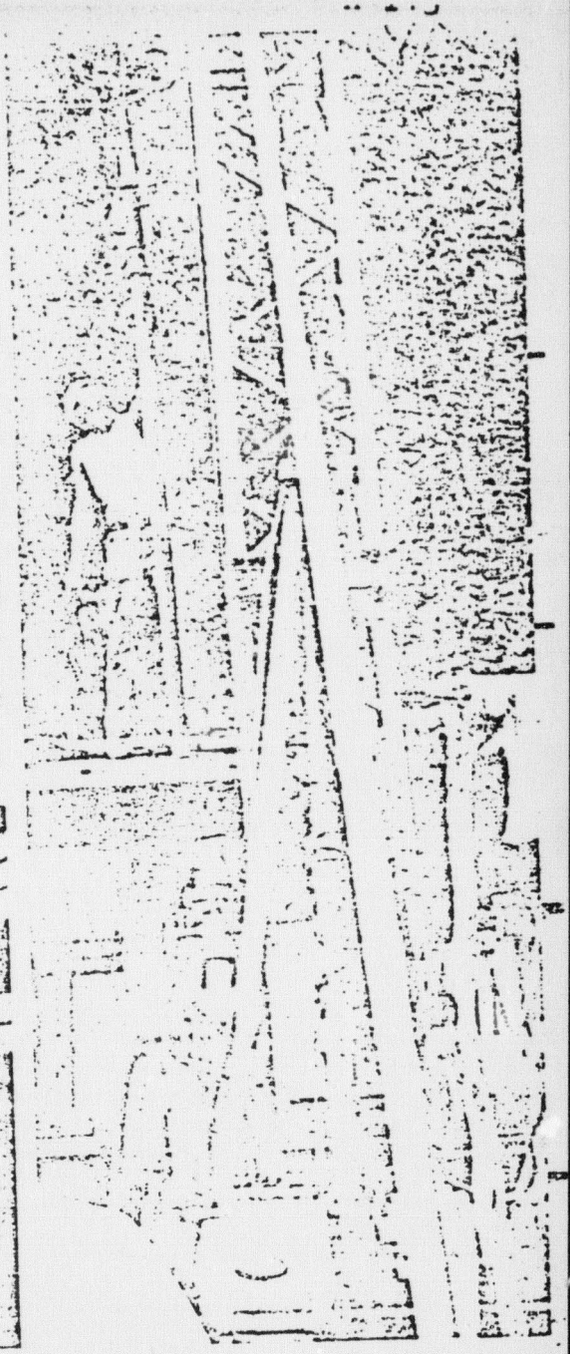
Tyler Kitteridge, staff geologist, gained jungle experience in Vietnam.



George Richardson finds surveying at Cerro Colorado is an uphill job.



Geologist Casey O'Toole checks out a box of core. Altogether, core shack has samples representing 65,000 ft of drilling in over 100 holes.



Wireline core barrel emerges from diamond drill hole No. 107.

have done some prospecting which, although superficial, has been enough to arouse interest. Several US companies have also sent experts to look at the area. Where interest is lacking, it seems to be due more to uncertainty about dealing with the local government, rather than geologic considerations. Understandably, many US mining companies are gun-shy these days about arrangements with Latin American nations.

Not so Canadian Javelin. For one thing, it's a Canadian company and if—as many US mining men believe—there is a strong anti-US feeling in Latin American countries, rather than an anti-foreign feeling, then the Canadians' row should be a little easier to hoe.

John Rozzini cites other reasons for his optimism about a long and happy relationship between his company and the Republic of Panama. "Mining will mean a lot of jobs in an area of Panama where they're badly needed. On top of that, the mine and plant and the port facilities we build will probably open the way for even more industrialization and more jobs."

After a puff on his pipe, he continues: "The Panamanians have also had the experience, because of the Canal Zone, of working with North Americans. They better understand the potential benefits of mutual cooperation in a project like this."

And Canadian Javelin has another valuable asset in its struggle to bring to fruition its plans to mine copper in Panama. In August of this year, Robert P. Koenig, former president of Cerro Corp., joined the company. With him he brings a notable record for development of mines as well as companies, a sound knowledge of mining, and much experience at sitting down at the conference table with government ministers as well as other businessmen.

In Panama, the Javelin has been launched and is winging its way. The question no longer seems to be if it will hit the target, but when. ☐

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.

Defendants.

- -X

73 Civ. 4403 DBB

NOTICE OF MOTION AND MOTION TO DISMISS COMPLAINT

S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of Marguerite B. Filson, sworn to February 1, 1974 and Notice of Motion filed by Messrs. Booth & Baron, attorneys for defendant McGraw-Hill, Inc., in the above action, and the affidavit of Neil D. Baron, Esq., sworn to January 25, 1974 annexed thereto, the undersigned will join in said motion, noticed to be heard on February 11, 1974 at 9:30 A.M., or as soon thereafter as counsel can be heard at the United States District Court, Room 1505, United States Courthouse, Foley Square, New York, New York, for an order pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, dismissing the complaint in this action as against defendant Stewart Pinkerton on the grounds that:

1. the Court lacks jurisdiction over the person of defendant Pinkerton; and

2. the complaint fails to state a claim against defendant Pinkerton upon which relief can be granted; and

for such other and further relief as to this Court may seem just and proper.

Dated: New York, New York
February 1, 1974

Yours, etc.,
PATTERSON, BELKNAP & WEBB

By: _____
A Member of the Firm
Office & P.O. Address
One Wall Street
New York, New York 10005
Telephone: (212) 943-1300

To: Samuel H. Sloan
Plaintiff, Pro Se
120 Liberty Street
New York, New York 10004

Booth & Baron
122 East 42nd Street
New York, New York 10004

Lord, Day & Lord
25 Broadway
New York, New York 10004

Diamond & Golomb P.C.
99 Park Avenue
New York, New York 10016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS COMPLAINT

73 Civ. 4403 DBB

- -X

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MARGUERITE B. FILSON, being duly sworn, deposes and says:

1. I am an attorney associated with the firm of Patterson, Belknap & Webb, attorneys for defendant Stewart Pinkerton. I am familiar with the facts and proceedings heretofore had herein and make this affidavit in support of defendant Pinkerton's motion to dismiss the complaint.

2. I have read the Notice of Motion filed by Messrs. Booth & Baron, attorneys for defendant McGraw-Hill, Inc., the affidavit of Neil D. Baron dated January 25, 1974 annexed thereto and the memorandum accompanying said motion.

3. Stewart Pinkerton joins in said motion and prays for an order dismissing the action as against him on the grounds that:

a. the Court lacks jurisdiction over the person of defendant Pinkerton; and

b. the complaint fails to state a claim against defendant Pinkerton upon which relief can be granted.

4. Plaintiff commenced this action in or about

September 1973, by the filing of a complaint in this Court naming "Stuart" Pinkerton as a defendant. Stewart Pinkerton was never served with that or any complaint until on or about January 24, 1974.

5. Mr. Pinkerton is Managing Editor of Canadian Dow Jones News Service. He is a resident of Canada and lives and works in Montreal, Quebec.

6. The complaint fails to allege that Mr. Pinkerton had any contact with the state of New York sufficient to bring him within the jurisdiction of this Court.

7. On or about January 24, 1974 Mr. Pinkerton telephoned our offices to report that he had received a copy of a summons and "amended" complaint in this action by registered mail.

8. A number of the defendants have served responsive pleadings to plaintiff's original complaint. Plaintiff has not received leave of court nor has he obtained consent of the parties to serve the instant amended complaint. This pleading ought to be stricken for failure of the plaintiff to comply with the Federal Rules of Civil Procedure.

9. Plaintiff, moreover, has failed to set forth as against defendant Pinkerton the elements necessary to constitute a claim under the Securities Laws or to show any connection whatever between the alleged wrongdoing and plaintiff's short sales and purchases.

10. The Court is respectfully referred to the McGraw-Hill memorandum and the memorandum accompanying the instant motion to dismiss upon the basis of which it is requested that this action be dismissed as against defendant Stewart Pinkerton.

WHEREFORE, it is respectfully requested that the motion of defendant, Stewart Pinkerton, to dismiss the complaint as against him be granted.

Marguerite B. Filson

Marguerite B. Filson

Sworn to before me this
1st day of February, 1974

Notary Public

ROBIN A. KAHAN
NOTARY PUBLIC, State of New York
No. 41-6490365
Qualified in Queens County
Commission Expires March 30, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

U.S. DIST. COURT
FILED
FEB 13 1974
S. D. OF N.Y.

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 4403 (DBB)

ORDER

Upon reading and filing the annexed affidavit of John R. Hupper, sworn to February 11, 1974, and sufficient cause appearing, it is

ORDERED that the time of defendant Pickands Mather & Co. to move or answer herein is hereby extended to and including March 13, 1974.

Dated: New York, N.Y.
February 11, 1974

Irv B. Bard

U.S.D.J.

MICROFILM
FEB 14 1974

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,	:	73 Civ. 4403 DBB
Plaintiff,	:	NOTICE OF MOTION PURSUANT TO RULE 12b (2) AND (4) F.R. CIV. P., TO QUASH SERVICE OF PROCESS AND TO DISMISS COMPLAINT BECAUSE OF LACK OF PERSONAL JURISDICTION
- against -	:	
CANADIAN JAVELIN LTD., et al.,	:	
Defendants.	:	

S I R S:

PLEASE TAKE NOTICE that upon the attached Motion by Defendant WRIGHT ENGINEERS LIMITED, the affidavit of Michael Barry Needham (attached hereto and marked Exhibit "A"), the Memorandum in support thereof and filed herewith and all other proceedings herein, Defendant WRIGHT ENGINEERS LIMITED will move this Court before the Honorable Dudley B. Bonsal in Room 2703 United States District Court House, Foley Square, New York, New York, on February 25, 1974, at 10:00 AM, or as soon thereafter as counsel may be heard, for an order pursuant to Rules 12b (2) and (4) F.R. Civ. P. dismissing the Complaint as against Defendant WRIGHT ENGINEERS LIMITED on the grounds that (1) service of process has not been properly made on it and (2) the Court lacks personal jurisdiction over it.

Dated: New York, New York
February 15, 1974

LAW FIRM OF MALCOLM A. HOFFMANN

BY Robert W Biggar

12 East 41st Street, New York,
New York (212) 685-0535
Attorneys for Defendant,
Wright Engineers Limited

TO: SAMUEL H. SLOAN
Plaintiff, Pro Se

SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,	:	
PLAINTIFF,	:	73 CIV. 4403 DBB AFFIDAVIT OF DEFENDANT WRIGHT ENGINEERS LIMITED IN SUPPORT OF THE MOTION TO QUASH SERVICE AND DISMISS FOR LACK OF PERSONAL JURISDICTION
- AGAINST -	:	
CANADIAN JAVELIN LTD., ET AL.,	:	
DEFENDANTS.	:	

AFFIDAVIT

I, Michael Barry Needham, of 1101 West Pender Street, in the City of Vancouver, in the Province of British Columbia, Secretary-Treasurer of Wright Engineers Limited, MAKE OATH AND SAY AS FOLLOWS:

1. THAT I am making this Affidavit in support of the Motion, being filed by the Defendant Wright Engineers Limited ("Wright") to quash the purported service of process upon it and to dismiss the above entitled lawsuit on the grounds that the above named Court has no personal jurisdiction over Wright.

2. THAT I am presently the duly elected and acting Secretary-Treasurer of Wright and have served in such capacity during all times set forth in the Complaint in which it is alleged Wright permitted its name to be used for allegedly fraudulent purposes or during which it allegedly participated in a "fraudulent scheme."

3. THAT Wright is a corporation which is now, was at the time of the filing of this lawsuit and was at all times set forth in the Complaint during which Wright is alleged to have participated in or been a party to, unlawful activities, incorporated under the laws of the Province of British Columbia, Canada, with its principal place of business at 1101 West Pender Street, Vancouver, B.C., Canada.

4. THAT Wright received a Summons and a copy of Plaintiff's Complaint (73 CIV. 4403) by ordinary non-registered surface mail on or about October 19th, 1973, and, thereafter, received another Summons, and a copy of a proposed Amended Complaint (73 CIV. 4403 DBB) on or about January 25th, 1974. Wright has never acknowledged service of the Plaintiff's original Complaint (73 CIV. 3801) which was never received by ordinary non-registered surface mail or any other means.

5. THAT Wright is not licensed to transact business in the State of New York or in any other State or Territory of the United States, has not appointed an agent for service of process in the State of New York or in any other State or Territory of the United States, and does not maintain an office, agent or any other representative in New York State or in any other State or Territory of the United States. Furthermore, Wright has never in the past been licensed to transact business, or appoint an agent for service of process, or maintained an office, agent or any other representative in the State of New York or in any other State or Territory of the United States.

6. THAT Wright is not presently and, during all times set forth in the Complaint during which Wright is alleged to have participated in or been a party to, unlawful activities, did not transact business in the State of New York. During all times set forth in the Complaint during which Wright was alleged to have participated in, or been a party to, unlawful activities, Wright's business transactions in the United States amounted to less than one per cent of the total of Wright's total business volume.

7. THAT Wright entered into a contract ("The Contract") with Canadian Javelin Limited ("Javelin") of Montreal, Quebec, Canada, on August 18th, 1972, providing for the preparation of a feasibility study (The "Feasibility Study") concerning a proposed mining project in the Republic of Panama. The Contract or the Feasibility Study were in no way paid for or authorized by the Government of Panama. During the period in which the Feasibility Study was being carried out, various changes were made to comport with developments encountered during such study. At no time did Defendant Javelin instruct Wright to "scrap the report and prepare a new report based on increased operating capacity," as alleged in the proposed Amended Complaint. The Feasibility Study was substantially completed and submitted to Javelin on or about September 25th, 1973.

8. THAT Wright negotiated and concluded the Contract exclusively in Vancouver, B.C. and all of the work connected with the Feasibility Study took place either in Canada or in visits to Panama.

9. THAT I have personally questioned all Directors and Officers of Wright and none of them is aware of any statements made by any of the other Defendants regarding information or data contained in the Feasibility Study. Wright has never done any business other than the Feasibility Study with Javelin. Wright

never authorized an officer, director, employee, agent or other representative of Javelin to issue or release any statements in respect of the Feasibility Study other than such statements as might need to be made, in the ordinary course of business, regarding the factual data contained in the Feasibility Study.

10. THAT until the two Summons and the proposed Amended Complaint described in paragraph four above were purportedly served upon Wright, Wright had no knowledge of any of the activities on the part of any other Defendants in this lawsuit which are alleged in the Complaint to have been unlawful.

SWORN BEFORE ME at the City of Vancouver, in the Province of British Columbia, this 12th day of February, A.D. 1974.

A Notary Public in and for the Province of British Columbia.

M B. Needham

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A-155

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civil 4403

DBB

NOTICE OF MOTION FOR SUMMARY JUDGEMENT

SIRS:

PLEASE TAKE NOTICE that upon the summons and complaint and the amended complaint of Samuel H. Sloan sworn to the 29th of December, 1973 and upon all the papers and proceedings had herein, Plaintiff Samuel H. Sloan will move this Court before the Honorable Dudley B. Bonsal in Room 2703 United States Court House, Foley Square, New York, N.Y. on March 11, 1974 at 10:00 A.M. or as soon thereafter as Plaintiff may be heard, for an order pursuant to Rule 56(a) F.R.Civ.P for summary judgement as against defendant Canadian Javelin Ltd., American Stock Exchange, Standard & Poors' Corp., The Miami Herald, Dow Jones & Co., Inc., Stewart Pinkerton, Bison Petroleum Minerals Ltd., William Wismer, Canada Permanent Trust Co., Steven L. Gerard, and McGraw-Hill, Inc. on the ground that no triable issues of fact exist as to deny the Plaintiff summary judgement.

PLEASE TAKE FURTHER NOTICE that the Plaintiff demands service of answering affidavits at least five days before the return date.

Dated: New York, N.Y.
February 27, 1974

SAMUEL H. SLOAN
120 Liberty St.
New York, N.Y. 10006
(212) 227-5816
(212) 254-2524

S. D. OF N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN, Plaintiff, -against- CANADIAN JAVELIN LTD., et al, Defendants.	:	73 Civil 3001 DBB
SAMUEL H. SLOAN, Plaintiff, -against- CANADIAN JAVELIN LTD., et al, Defendants.	:	73 Civil 4403 DBB
SECURITIES & EXCHANGE COMMISSION, Plaintiff, -against- CANADIAN JAVELIN LTD., JOHN C. DOYLE, WILLIAM M. WISMER, Defendants.	:	73 Civil 5074 LFM NOTICE OF MOTION TO CONSOLIDATE

SIRS:

PLEASE TAKE NOTICE that upon the summons and complaint in the action bearing the docket number 73 Civil 3001, the summons and complaint and the amended complaint in the action bearing the docket number 73 Civil 4403, the summons and complaint in the action bearing the docket number 73 Civil 5074 and all the papers and proceedings filed therein Samuel H. Sloan will move this court before the Honorable Dudley B. Bonsal in Room 2703 United States Court House, Foley Square, New York, N.Y. on March 11, 1974 at 10:00 A.M. or as soon

hereinafter will apply to the Court for an order pursuant to Rule 42(a) F.R.Civ.P. for an order consolidating these three actions on the ground that they involve a common question of fact and law pending before the Court.

Dated: New York, N.Y.
March 1, 1974

SAMUEL H. SLOAN
120 Liberty St.
New York, N.Y. 10006
(212) 227-5816
(212) 254-2524

A-158

S. D. OF N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., STANDARD & POOR'S CORPORATION, McGRAW-HILL, INC., et al.,

Defendants.

73 Civil 4403

AFFIDAVIT IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

DBB

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

NEIL D. BARON being duly sworn, deposes and says:

(1) I am an attorney at law and member of the law firm of Booth & Baron, attorneys for defendants Standard & Poor's Corporation and McGraw-Hill, Inc. ("Defendants"), and am familiar with the facts and proceedings heretofore had herein and make this affidavit on behalf of Defendants in Opposition to Plaintiff's Motion for Summary Judgment.

(2) Deponent repeats and realleges each and every statement set forth in all papers submitted and argument made herein on behalf of Defendants, and, based thereon, respectively requests that the Court deny Plaintiff's Motion for Summary Judgment.

NEIL D. BARON

Sworn to before me this
4th day of March, 1974.

Marianne J. Firelli
Notary Public

MARIANNE J. FIRELLI
Notary Public, State of New York
No. 30-6302410 Qual. in Westchester Co.
Certificate filed in New York County
Commission Expires March 30, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 4403

(DBB)

AFFIDAVIT

----------x

STATE OF FLORIDA)
: SS.:
COUNTY OF DADE)

LARRY JINKS, being duly sworn, deposes and says:

1. I have been the executive editor of The Miami Herald for eighteen months and have worked for The Miami Herald for thirteen years. I am familiar with the facts and circumstances as set forth below and make this affidavit in suppor of The Miami Herald's cross-motion for summary judgment.

2. Periodically, the Latin American Department of The Miami Herald has received unsolicited articles from independent correspondents or stringers concerning developments in South and Central America.

3. During the past three years Colin Hale, who was the managing editor of the Panama American, a daily English newspaper in Panama, has submitted approximately 120 articles to The Miami Herald concerning Latin and Central American developments. Colin Hale is also an independent correspondent for Reuters, a worldwide English wire service.

4. Among the articles submitted to The Miami Herald were the two articles complained of in Samuel H. Sloan's purported amended complaint, sworn to December 29, 1973.

5. The above articles were published by The Miami Herald on July 17, 1973 and July 18, 1973 and are attached hereto as "Exhibit A."

6. During the three years in which Colin Hale has been submitting his articles to The Miami Herald, we have always found that they were accurate and reliable.

7. Also, all of Colin Hale's articles are carefully reviewed by our Latin American Department, which consists of Donald Bohning, William Montalbano and Frank Soler.

8. The above individuals have broad backgrounds in South and Central America and they spend approximately six or seven months each year traveling there in order to obtain firsthand knowledge of developments there.

9. The articles complained of by Mr. Sloan were edited by the Latin American Department of The Miami Herald for form only and no substantive changes were made. The articles were then published in the Latin American section of The Miami Herald, not the financial section.

10. The Miami Herald did not have any direct or indirect contacts with Canadian Javelin, Ltd. or any of its employees or agents prior to the publication by The Miami Herald of these articles by Colin Hale.

11. When the above articles were published by The Miami Herald, it believed that they constituted a correct and accurate representation of the facts contained therein and The Miami Herald had no knowledge, information or reason to believe to the contrary.

Larry Jinks

Sworn to before me this
4 day of March, 1974.

Delmas E. Lanier
Notary Public
NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUG. 22, 1975
GENERAL INSURANCE UNDERWRITERS, INC.

Gold, Copper Finds Stir Panama Economic Hopes

Special To The Herald

PANAMA — This country's mineral wealth — copper, zinc, molybdenum, gold, silver and other base metals — promises to revolutionize its economy, divorcing it still further from its previous dependence on the Panama Canal, agriculture and banking.

Minerals also promise to spread the wealth more evenly across the country instead — as has been happening over the past decade — of concentrating it in this capital.

Yet, ironically, the country's biggest potential mineral operation is situated in the country's richest agricultural area, Chiriqui Province, adjoining the border with Costa Rica.

NONETHELESS, even the poorest province, Veraguas, stands to benefit from the latest concession granted by the government of Panamanian strongman Brig. Gen. Omar Torrijos. It is to Veraguas, his home province, that Torrijos has devoted much of his efforts, providing it with a major internal airport, a sugar refinery and other development works.

Now, through a Panama-registered company, Pavonia S.A., a wholly-owned subsidiary of Canadian Javelin Ltd., Bison Petroleum and Minerals Ltd. (61 per cent owned by Canadian Javelin), has acquired a 200,000-acre concession to explore and exploit gold, silver and other mineral deposits in Veraguas Province.

According to the announcement by Bison Petroleum, the concession contains at least 115,000 tons of gold-bearing ore at El Remance and approximately 30,000 tons of base metals at Hatillos.

THE GOLD assays at El Remance deposits gave a content of one quarter to one third of an ounce per ton with lesser additional values of silver and other metals," the Bison announcement said. With gold bringing over $120 an ounce today, these percentages are more than sufficient to warrant commercial exploitation.

It is expected that the investment required to exploit these deposits will total about $2 million. A helpful boost for Veraguas Province, but a drop in the bucket compared with the investments needed to develop a mine of copper ore discovered in Chiriqui Province.

There, in an area known as the Pavonia Laboratory drilling has confirmed the existence of the largest copper deposit yet found in the world — an estimated 2.2 billion tons of ore assaying at an average 0.81 per cent copper for the first 15 years of mining.

THIS MOUNTAIN of copper deposits, the Cerro Colorado, flanks two other mountains with surface indications of rich copper deposits giving a potential six to eight billion tons of copper ore in the area.

Since acquiring the concession through Pavonia in 1970, Canadian Javelin has committed $14 million to exploration, of which about $10 million has already been spent. In the process, employment has been provided for between 400 and 500 Panamanians.

An airstrip was hacked out by hand on the only reasonably level ground in the area. Eleven drill rigs, thousands of gallons of fuel, food, wooden living quarters and other supplies were flown in, 90 per cent of them by helicopter since road conditions make landing on the airstrip dangerous at certain times of the year.

A BULLDOZER, the only equipment not flown in, and road gangs carved a tortuous track up the steep, grass-covered slopes of 5,000-foot high Cerro Colorado to provide access for the drilling rigs. To date, some 135 bore holes, totaling 100,000 feet in depth, have been drilled across Cerro Colorado. Some 16,000 assays have been made.

"The drilling program is about one-third completed, but with the completion of the exploratory phase on Cerro Colorado, we know enough to proceed with development," a Canadian Javelin spokesman said. Next in the exploratory phase are the two adjoining peaks, Cerro Mogla and Cerro Balsa.

While Canadian Javelin assembles the $300 million capital needed to develop Cerro Colorado, consulting firms, led by a Canadian company, Wright Engineering, are preparing an economic and technical study of the project. Pending completion of this study, the exact program of development has not been fixed, but this much is known:

● A road capable of supporting weights as great as 120 tons is to be built from the Inter American Highway, near Las Lajas, 22 miles to the site. Construction of this road has started and is expected to be completed by the end of the year.

● Another road, of similar capacity and about 11 miles long, from the Inter American Highway to a deep-water port is to be constructed on the Pacific Coast.

● An electric power plant with a capacity of [illegible] megawatts (greater than Panama's total power production today) is to be built adjacent to the port. Fuel for the power plant is to be supplied from oil tankers using an offshore [illegible].

● A smelter, estimated to cost about $[illegible] million, is to be built at the 4,000-foot level on Cerro Colorado. Possibly there will be a copper refinery.

● Heavy earthmoving equipment [illegible] to move the [illegible] supply as much as [illegible] metric tons of ore per day to the smelter, giving as much as 400,000 tons of copper annually.

● Eventually, a second road, running 12 miles along the Continental Divide and then 16 miles down a second part of the Grande, in the Caribbean coast, will provide access to the Atlantic and European markets for copper.

● The development of [illegible] and the exploration stage will require [illegible] 4,000 Panamanians, whose wages will pour [illegible] into the local economy.

Around the Americas

2 Peron Groups Denounce Lastiri As a 'Conspirator'

BUENOS AIRES — (UPI) — Two Peronist guerrilla groups Monday denounced the interim president of Argentina, Raul Lastiri, as part of an "imperialist conspiracy" and demanded that Juan D. Peron take power immediately.

Juan Peron
... the 'boss'

LASTIRI, HEAD OF THE chamber of deputies, became President three days ago when Hector J. Campora resigned, and promised to call elections within 30 days which would install Peron as the head of government.

Campora, who had been picked by Peron to run for him in the March elections, resigned Friday after only 49 days in office to open the way for the "boss," as he describes Peron, to become president.

Campora's resignation, along with the vice president and the head of the Senate, came under pressure from the orthodox Peronists in the labor movement who want Peron to crack down on extreme left Peronists.

The leftist Peronist guerrillas sent a communique published in newspapers Monday saying, "General Peron must take over immediately because the presence of Lastiri as provisional president allows the imperialist conspiracy to continue and means a return to the (military) regime overthrown March 11."

—United Press International Telephoto

Whistling Ariel Ferreira da Silva
... melodies in Rio draw customers

ADVERTISEMENT
More Security With
FALSE TEET
While Eating, Talk
Ahead [illegible]

A-162

at the assembly session scheduled for Sept. 18.

Colombia Ready For Cuba Talks

BOGOTA, Colombia — Colombia is willing to initiate steps to set up a hemispheric conference to discuss possible return of Cuba to the American family of nations,

Mexico by U.S. authorities.

The government said 27,749 Mexican art objects, valued at more than $8 million, have been returned by American authorities in the last six months. Most of them were pillaged from Mexican archeological sites or village churches and were smuggled to the United States, usually California.

Their recovery, authorities

For Copper Mining

The Miami Herald
Wed., July 18, 1973, col. 1, at 2-E.

Panama to Negotiate With Canadian Firm

Special To The Herald

PANAMA — The Panama government has advised Canadian Javelin that it will form a committee to negotiate a contract with the metals firm "for placing the vast Cerro Colorado copper project into production as soon as possible," Canadian Javelin announced Tuesday.

Company officials met recently with Panamanian chief of state Brig. Gen. Omar Torrijos and some of his advisers, the announcement said.

IN ADDITION to reaching agreement on workers' housing and waste disposal, the company officials provided government officials with an outline of its basic program.

This calls for establishing "a mine and mill to process 676,000 (short) tons per day of copper ores into shipping products of which one-half is to be exported as concentrate, one-fourth as blister copper and the final fourth to be shipped after processing as electrolytic copper and wirebar.

"The Javelin plan contemplates the establishment of a 200,000-tons per year smelter and a 100,000 tons per year electrolytic copper refinery," the announcement said.

THE PANAMA government "considers that the employes of the planned copper producing complex (expected to number about 4,000 should live in neighboring existing communities . . rather than establishing a mining community," Canadian Javelin said.

The company also plans to use "the vast amounts of tailings and waste rock. . . to fill swamp areas of the Pacific Coast of Panama," the announcement said.

For this, a 36-inch pipeline will be constructed from the mine to the coast.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

SAMUEL H. SLOAN, :

Plaintiff, :

- against - :

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- -x

73 Civil 4403 (DBB)

AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MARGUERITE B. FILSON, being duly sworn, deposes and says:

1. I am an attorney associated with the firm of Patterson, Belknap & Webb, attorneys for defendant Dow Jones & Company, Inc. ("Dow Jones"). I am familiar with the facts and proceedings heretofore had herein, and I make this affidavit in response to plaintiff's motion to consolidate and in opposition to plaintiff's motion for summary judgment.

2. This action was commenced on September 4, 1973 upon the filing, by plaintiff, pro se, of a summons and complaint in 73 Civil 3801. Dow Jores was named as one of 9 defendants. The complaint consisted of 12 paragraphs and alleged inter alia that Dow Jones had violated the Securities Laws by publishing allegedly false information and by failing to publish allegedly "reliable" information about Canadian Javelin, a security sold on the American Stock Exchange.

3. Dow Jones timely answered this complaint denying the material allegations as to it and setting forth the following affirmative defenses:

i. Failure to state a claim in that the requisite elements for stating a violation of the Securities Laws had not been set forth;

ii. Plaintiff had no standing to sue;

iii. This Court was without jurisdiction;

iv. The granting of relief as against Dow Jones would violate the First and Fourteenth Amendments to the United States Constitution.

4. On October 12, 1973 plaintiff commenced a second action in this Court by filing a summons and complaint in 73 Civil 4403. This complaint named approximately 35 defendants including Dow Jones and consisted of some 20 paragraphs. The allegations of this complaint as to Dow Jones were the same as those alleged in 73 Civil 3801.

5. Prior to the time an answer would have been due in the second action, Dow Jones was served with a third complaint, styled "Amended Complaint" in 73 Civil 3801 and 73 Civil 4403. This complaint consisted of some 41 paragraphs and again made essentially the same allegations as to violations of the Securities Laws by Dow Jones.

6. Dow Jones timely answered this amended complaint despite the fact that plaintiff had not obtained leave of court to amend his complaint in accordance with the Federal Rules of Civil Procedure. In its answer Dow Jones again denied the material allegations of the amended complaint

and asserted essentially the same affirmative defenses as it had in its answer to the complaint in 73 Civil 3801.

7. On January 3, 1974, plaintiff filed yet a fourth complaint naming Dow Jones as a defendant and again alleging inter alia that Dow Jones had violated the Securities Laws. This complaint was also styled "Amended Complaint". It consisted of some 253 paragraphs, named approximately 46 defendants, and was filed and served without plaintiff having obtained leave of court to amend in accordance with the Federal Rules of Civil Procedure. Dow Jones did not answer this fourth complaint.

8. During the course of these confused proceedings, a number of defendants made motions to dismiss one, the other or both actions on numerous grounds, including failure by plaintiff to state a claim. These motions came on for hearing before this Court on January 14, 1974. Mr. Sloan failed to attend the hearing. He did, however, "appear" through a certain Mr. Ilson, who the Court ascertained had not been admitted to the practice of law before this or any Court.

9. At the January 14th hearing, Dow Jones requested and was granted leave to make a motion to dismiss the fourth complaint on the grounds that leave had not been granted plaintiff to file an amended complaint, that Dow Jones having already answered twice was being harassed by plaintiff, and that the complaint failed to state a claim against Dow Jones upon which relief could be granted.

10. Dow Jones' motion to dismiss is now before this Court.

11. Plaintiff has moved to "consolidate" the actions herein.

12. If the Court should grant plaintiff's consolidation motion, Dow Jones respectfully requests that its previous answers be set aside and that its motion to dismiss remain in force and be joined with the motions to dismiss made by defendants Standard & Poor's Corporation, and McGraw-Hill, Inc. on the grounds and for the reasons set forth in their papers submitted heretofore in this action.

13. As to plaintiff's motion for summary judgment, Dow Jones joins the defendants Standard & Poor's and McGraw-Hill in opposing such motion on the ground that plaintiff has not demonstrated that he is entitled to summary judgment as a matter of law.

Marguerite B. Filson

Marguerite B. Filson

Sworn to before me this

4th day of March, 1974.

Michael J. O'Connor

MICHAEL J. O'CONNOR
Notary Public, State of New York
No. 31-
Qualified in New York County
Commission Expires March 30, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 4403 (DBB)

NOTICE OF CROSS-MOTION

S I R S:

PLEASE TAKE NOTICE that upon the affidavit of Larry Jinks, sworn to March 4, 1974 and the exhibit submitted therewith, and the pleadings and other papers filed herein, defendant will move the Court, Honorable Dudley B. Bonsal, in Room 2703 at the United States Courthouse, Foley Square, New York, New York 10007 on the 11th day of March, 1974 at 9:30 A.M. or as soon thereafter as counsel can be heard, for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure against the plaintiff dismissing the complaint as to defendant The Miami Herald, and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 6, 1974.

Yours, etc.

SULLIVAN & CROMWELL

By _____
(A member of the firm)
Attorneys for Defendant
The Miami Herald
48 Wall Street
New York, New York 10005
(212) 952-8100

To: Samuel H. Sloan
120 Liberty Street
New York, New York 10006

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

Plaintiff, : 73 Civ. 4403 (DBB)

-against- :

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- x

MATERIAL FACTS AS TO WHICH
DEFENDANT CONTENDS THERE IS
NO GENUINE ISSUE TO BE TRIED

In accordance with the requirements of Rule 9(g), General Rules of the United States District Court for the Southern District of New York, defendant The Miami Herald submits the following statement of material facts as to which it contends there is no genuine issue to be tried:

1. The articles complained of in the purported "Amended Complaint" sworn to Dec[illegible], 1[illegible] published on July 17, 1973 and July 18, 1[illegible] of The Miami Herald, were written by Colin Hale, an independent correspondent or stringer.

2. The Miami Herald edited said articles for form and did not change the substance thereof.

3. During the last three years, The Miami Herald has received approximately 120 articles from Colin Hale concerning news developments in Latin and Central America.

4. Colin Hale is experienced in Latin and Central American developments, having been the managing editor of The Panama American, a daily English newspaper in Panama and currently being an independent correspondent

for Reuters, a worldwide English wire service.

5. The Miami Herald has always found Mr. Hale's articles to be accurate and reliable.

6. Experienced persons in The Miami Herald's Latin American Department reviewed Mr. Hale's articles before they were published in the Latin American section of the newspaper.

7. Prior to the publication of the articles complained of, The Miami Herald did not have any direct or indirect contact with Canadian Javelin, Ltd. or any of its employees or agents.

8. The articles complained of contain quotations from press releases and statements by officials of Canadian Javelin, Ltd. and the government of Panama.

9. When The Miami Herald published the articles complained of, it believed that they constituted a correct and accurate representation of the facts contained therein, and The Miami Herald had no knowledge, information or reason to believe to the contrary.

Dated: New York, New York
March 6, 1974

Respectfully submitted,

SULLIVAN & CROMWELL

By _____
(A Member of the Firm)
48 Wall Street
New York, New York 10005
(212) 952-8100

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

Plaintiff, :

- against - :

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- x

73 Civil 4403 (DBB)

REPLY AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MARGUERITE B. FILSON, being duly sworn, deposes and says:

1. I am an attorney associated with the firm of Patterson, Belknap & Webb, attorneys for the defendant, Stewart Pinkerton. I am familiar with the facts and proceedings heretofore had herein, and I make this affidavit in further support of defendant Pinkerton's motion to dismiss and in opposition to plaintiff's motion for summary judgment.

2. Plaintiff, in his opposition papers, has still failed to demonstrate any possible ground upon which this Court could, consistent with due process, exercise jurisdiction over the person of Stewart Pinkerton.

3. Plaintiff's memorandum submitted in opposition to defendant Pinkerton's motion to dismiss contains statements concerning Mr. Pinkerton which are either wrong or misleading.

4. As stated in the moving affidavit in support of defendant's motion to dismiss, Mr. Pinkerton resides and works in Canada.

5. Mr. Pinkerton is not an employee of Dow Jones & Company, Inc. ("Dow Jones") but is employed by Canadian Dow Jones Ltd., a Canadian corporation having its principal place of business in Canada.

6. Mr. Pinkerton does not "work for an American newspaper." He is, as previously stated in his motion papers, Managing Editor of Canadian Dow Jones News Service.

7. Patterson, Belknap & Webb have not appeared for Mr. Pinkerton in this action prior to the instant motion to dismiss for lack of jurisdiction and failure to state a claim dated February 1, 1974 and now before this Court.

8. The receipt by attorneys of a summons and complaint prior to an appearance on behalf of a party simply does not constitute service of process and certainly does not confer jurisdiction.

9. Mr. Pinkerton was never served with a summons and complaint in this action prior to the attempt made by plaintiff on or about January 24, 1974.

10. Plaintiff would have this Court exercise jurisdiction and bring Mr. Pinkerton to New York on the basis of two or three alleged telephone conversations between plaintiff in New York and Mr. Pinkerton in Canada.

11. Deponent knows of no instance where telephone conversations such as those alleged by plaintiff were deemed

a contact sufficient to bring an individual within the jurisdiction of the court of any state.

12. As to plaintiff's motion for summary judgment, such motion as to defendant Pinkerton is premature and should not be entertained prior to a resolution of the jurisdictional issue. Furthermore, even if it is determined that the Court has jurisdiction over defendant Pinkerton, it is respectfully submitted that plaintiff has utterly failed to show that he is entitled to judgment as a matter of law.

WHEREFORE, for the reasons stated hereinabove and in the supporting papers previously submitted by defendant Pinkerton herein, it is respectfully requested that the motion of defendant Pinkerton to dismiss the complaint be granted and plaintiff's motion for summary judgment be denied.

Marguerite B. Filson

Marguerite B. Filson

Sworn to before me this

6th day of March, 1974

[illegible]

[illegible] COLLIOR

[illegible]

Qual[illegible] Kings County

[illegible] 1974

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

1403
73 Civil 4404
DBB

AFFIDAVIT

STATE OF NEW YORK)
:
COUNTY OF NEW YORK)

MICHAEL J. MURPHY, being duly sworn, deposes and says:

I am a member of the Bar of this Court and an associate of the firm of Lord, Day & Lord, attorneys for the defendants American Stock Exchange, Inc. and Steven L. Gerard. I make this affidavit in opposition to the plaintiff's applications for summary judgment and consolidation.

The summary judgment application is not supported by affidavit or a memorandum of law setting forth the grounds upon which it is based. Moreover, it prematurely seeks summary judgment on an amended complaint which (a) was filed without the required approval of the Court, and (b) as to which there are several dismissal motions now pending. Further, this Court should not be requested to consolidate a complaint which is not properly filed in the first instance.

Accordingly, it is respectfully submitted that the plaintiff's application for summary judgment and consolidation be denied.

Michael J. Murphy

Sworn to before me this
8th day of March, 1974.

Notary Public

(Notarial Seal)

ROY G. NELSON
NOTARY PUBLIC, State of New York
No. 41-8118201
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1974

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 3801
DBB

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403
DBB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.,
JOHN C. DOYLE,
WILLIAM M. WISMER,

Defendants.

73 Civil 5074

AFFIDAVIT IN OPPOSITION TO NOTICE OF MOTION TO CONSOLIDATE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

NEIL D. BARON, being duly sworn, deposes and says:

(1) I am an attorney at law and member of the law firm of Booth & Baron, attorneys for defendants Standard & Poor's Corporation and McGraw-Hill, Inc. ("Defendants"), and am familiar with the facts and proceedings heretofore had herein, and make this affidavit in opposition to Plaintiff's motion to consolidate.

(2) Plaintiff moves to consolidate these actions on the basis that they involve a common question of fact and law.

(3) Deponent repeats and realleges every statement set forth in all papers submitted and argument made herein on behalf of Defendants, and based thereon submits that the questions of law and fact are vastly different for each defendant.

(4) Questions of fact pertaining to Defendants which are not common to the other defendants are:

a) Whether the alleged wrongdoing was in conrection with the purchase or sale of a security.

b) Whether facts constituting fraud have been alleged.

c) Whether Plaintiff relied on Defendants' statements.

d) Whether Defendants' alleged wrongdoing actually caused Plaintiff's alleged damages.

e) Whether Plaintiff is in Pari delicto with, or more culpable than the Plaintiff.

(6) If these actions are consolidated, the disproportionate guilt of certain defendants may well prejudice and inflame a Court and/or jury against Defendants.

WHEREFORE, Defendants respectfully request that the Court

deny Plaintiff's motion to consolidate.

NEIL D. BARON

Sworn to before me this
11th day of March, 1974.

NOTARY

MARIANNE J. FIRELLI
Notary Public, State of New York
No. 30-6302410 Qual. in Westchester Co.
Certificate filed in New York County
Commission Expires March 30, 1974

U.S. DISTRICT COURT
FILED
MAR 13 1974
S. D. OF N.Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 4403 (DBB)

ORDER

Upon reading and filing the annexed affidavit of John R. Hupper, sworn to March 11, 1974, and sufficient cause appearing, it is

ORDERED that the time of defendant Pickands Mather & Co. to move or answer herein is hereby extended to and including April 15, 1974.

Dated: New York, N.Y.
March 14, 1974

U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civil 3801

DBB

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civil 4403

DBB

SECURITIES & EXCHANGE COMMISSION,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.,
JOHN C. DOYLE,
WILLIAM M. WISMER,

Defendants.

73 Civil 5074
(Judge MacMahon)

AFFIDAVIT IN OPPOSITION
TO MOTION TO CONSOLIDATE

CITY OF WASHINGTON) ss
DISTRICT OF COLUMBIA)

W. Michael Drake, first being duly sworn, says:

1. I am an attorney for the Securities and Exchange Commission and am familiar with the matters alleged in a civil action styled Securities & Exchange Commission v. Canadian Javelin Ltd., et al., 73 Civ. 5074 (S.D.N.Y.) presently pending in this District before Judge MacMahon.

2. This affidavit, and accompanying memorandum of law, is submitted in opposition

to the motion of Samuel H. Sloan ("Sloan") to consolidate the above-styled and captioned matters. It sets forth the basis of the Securities and Exchange Commission' opposition to that motion.

3. The Commission filed a civil action on November 29, 1973, seeking an injunction against Canadian Javelin from violating certain sections of Securities Act of 1933 and of the Securities Exchange Act of 1934, the appointment of a special receiver and other ancillary relief.

4. The Commission, on information and belief, asserts that the Sloan actions presently pending before Judge Bonsal are not of the character amenable to consolidation under Rule 42, Fed. R. Civ. Procedure or any other principle of law or equity. The Sloan actions are primarily actions at law to recover damages from sundry individuals. Furthermore, the Commission, on information and belief, is informed that in the Sloan action there are some 50-60 defendants against whom various and assorted allegations are asserted. The mere number of defendants in the Sloan actions will create innumerable disparities of legal and factual questions, therefore rendering consolidation impractical. Additionally, the Commission has only recently concluded a civil injunctive action against movant Sloan. S.E.C. v. Sloan, [Current Vol.], CCH, Fed. Sec. L. Rep., ¶94,338 (S.D.N.Y. Jan. 7, 1974 - Judge Ward). In that action, Sloan was permanently enjoined by the Court from further violations of §17(a) of the Exchange Act, 15 U.S.C. §78q(a), and Rule 17a-3 promulgated thereunder, §15(c)(3) of the Exchange Act, 15 U.S.C. §78o(c)(3) and Rule 15c 3-1 thereunder. As part of that action, the Court found as a fact that Sloan failed to disclose in his books certain transactions in the common stock of Canadian Javelin Limited ("CJV"). It appears, therefore, not to be idle speculation that certain of the defendants will assert specific defenses against the Sloan action.

5. Conversely, the Commission action is primarily a statutory action, basically in equity, to protect the investing public from future violative activity of the securities laws and to seek equitable relief in regard to future activities. The Commission further understands that certain motions for summary relief are pending in the Sloan actions, and therefore the present motion to consolidate

may be premature or become mooted.

WHEREFORE,

6. The Commission, for the reasons more fully set forth in the accompanying memorandum of law, which is herein incorporated by reference, prays this Court to deny Sloan's motion to consolidate.

7. The Commission further prays that it be heard if the Court so desires on this matter.

Dated: Washington, District of Columbia
March 21, 1974

W. Michael Drake

W. Michael Drake
500 North Capitol Street
Washington, D.C. 20549

Sworn before me this

21st day of March 1974

Notary Public, D.C.
My commission expires 10/14/76

William E. Moran
Administrator
New York Regional Office
Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007
Telephone (212) 264-1636

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 3801

DRB

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403

NOTICE OF MOTION

DRB

PLEASE TAKE NOTICE that upon the annexed affidavit of Samuel H. Sloan, sworn to the 4th day of June, 1974 and all of the papers and proceedings had herein, Plaintiff will move this Court at a term for motions on the 17th day of June, 1974 before the Honorable Dudley B. Bonsal in the United States District Court for the Southern District of New York, at Foley Square, New York, N.Y. at 9:30 a. m. or as soon thereafter as Plaintiff can be heard for an order pursuant to Rule 59 F.R.Civ.P. reversing the opinion of this Court dated May 30, 1974 and for an order pursuant to Rule 15(a) F.R.Civ.P. granting Plaintiff leave to file an amended complaint.

Yours, etc.

Samuel H. Sloan
Plaintiff, pro se

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 3801

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403

AFFIDAVIT IN SUPPORT OF MOTION PURSUANT TO RULE 59 F.R. Civ. P. AND RULE 15(a) F.R. Civ. P.

State of New York)
: ss.:
County of New York)

Samuel H. Sloan, being duly sworn, deposes and says:

1. I make this affidavit in support of a motion pursuant to Rule 59 F.R. Civ. P. for a rehearing of the opinion of this Court dated May 30, 1974 and in support of a motion pursuant to Rule 15(a) F.R. Civ. P. for an order granting leave to file an amended complaint.

2. It is apparent from a reading of the opinion dated May 30, 1974 that the Court is unhappy with the way I have presented my case. Nevertheless, I feel that in the interests of justice the Court should reverse itself and permit me to proceed and to grant me leave to file an amended complaint. This Court should grant leave to file an amended complaint because at no time has the Court signed an order and filed it with the docket

speaking from the bench, did order Plaintiff to file an amended complaint on November 19, 1973, only two of the opposing parties knew of this order since they were the only two parties present at the time.

3. I should like to point out that I am not the primary loser on this motion. The parties who will suffer the most as a result of this decision are the brokers whom I have named as defendants. With a few exceptions, these brokers have made claims against me with respect to trading in Canadian Javelin Ltd. The brokers involved and the approximate dollar amount of the claims are as follows: Chartered New England, $39,000; Bache & Co., $31,000; Dominick & Dominick, Inc., $16,000; Davidson Partners Ltd., $12,000; Weis & Baer, Inc., $5,000; Pressman, Frohlich & Frost, Inc., $5,000; Edwards & Hanly, $6,600; Muller & Co., $1500; Oswald, Drinkwater & Graham, $1000; and Merrill, Lynch, Pierce, Fenner and Smith, Inc., $13,000. Being a broker myself, I would prefer to see all of these brokers get paid. However, I am without the funds to do it.

4. In the case of each of these brokers I have specific defenses which I will assert if they attempt to proceed against me. Nevertheless, the fact remains that they feel that I owe them a total of more than 130,000. I am essentially judgment proof. The only hope that these brokers have to recover this $130,000 lies in the possibility that I may win my lawsuit against Canadian Javelin Ltd. By extinguishing this lawsuit, this Court has done something it probably did not intend to do. It has extinguished any possibility that the brokers in question might recover this $130,000. I feel this is wrong. Even if this Court does not like me or my lawsuit, I do not believe that it wants to damage the brokerage industry and leave as beneficiaries Canadian Javelin Ltd., Doyle, and Wismer and those who acted in concert with them. I feel that this Court should desire a

more equitable resolution to this litigation.

5. Page 18 of the decision states that I may, if I am "so advised," institute a new action against CJV, Doyle, and Wismer. Apparently, the Court is being critical of me for not obtaining the advice of counsel. The fact is that I consulted many attorneys in preparing for this lawsuit and I did not obtain counsel because I was told that this litigation would require between $10,000 and $50,000 in legal fees and I was without the financial resources to pay this sum of money. In addition, I was unable to obtain counsel on a contingency basis because of certain problems in this lawsuit relating to the question of reliance and also because many of the law firms who might take this kind of lawsuit, such as Pomerantz, Levy, Hauder & Block and others have already litigated against CJV and have been unable to collect the legal fees due them. In fact, CJV still owes $367,500 in court ordered legal fees as a result of prior stockholder litigation terminated in 1963. The fact, which is not apparent from their published balance sheet and income statement, is that CJV has no liquid assets with which to pay a judgment. All of their receivables have been assigned until the year 1979. I named Pickands, Mather & Co. as a defendant to this action because the only real receivables belonging to CJV are under the control of Pickands, Mather & Co. In any event, steps have obviously been taken as to make any judgments against CJV unenforcable. Similarly, Doyle has obviously secreted any assets he might have.

6. For these reasons, a lawsuit against CJV, Doyle and Wismer would be a waste of time just as a lawstuit by the brokers in question against me for $130,000 would be a wasteof time.

7. In any event, no counsel would represent me on a contingency basis against CJV, Doyle, and Wismer alone because the only money I actually paid out as a result of losses in CJV came to about $45,000 and in order to get paid the counsel in question would have to obtain a judgment from CJV, collect on such a judgment, and then fight off the brokers who feel they have claims against me.

8. At various times during this litigation I have hoped thatSullivan & Cromwell and the other law firms representing the brokers in question would, in effect, commence to represent me in the hopes of obtaining payment for their clients. It is now obvious that this is not going to happen, especially since the decision of the Court states on the last page thereof that I failed to state a claim. I am sure that at least some of the brokers are dissapointed by this result. In particular, on May 30, 1974 I spoke to Leonard Toboroff, attorney for Chartered New England Corp. Chartered New England Corp. has already obtained summary judgment against me by default in the amount of $39,436.91. Toboroff offered to extinguish the claim of Chartered against me if I would pay $1300 in full settlement of this indebtedness. He said that his client would only accept this offer because Toboroff had advised them that he felt I would lose my case against Canadian Javelin Ltd., not because of legal insufficiency of my claim, but because I was making a mess of my lawsuit. He called me the next day to repeat his offer. I am not sure if he was aware of the de-

cision of the Court at that time. I did not learn of it myself until the next day.

9. What the brokers in question fail to appreciate is that they are lucky that I attempted to litigate this matter at all. For example, on July 27, 1973 I went to Panama. At that time, according to my best calculations, I was short 33,400 shares of Canadian Javelin Ltd. at an average price of about 9 1/2. Javelin had traded the previous day at 14 5/8. There was no reason for me to come back from Panama. I was losing $170,000 and had almost no chance of recovery. I had no family in New York City and there was nothing holding me here. Nevertheless, I decided to come back and see what would happen. The amended complaint I filed states correctly that I proceeded to pay brokers until I was left almost completely without funds. At that point Edwards & Hanly siezed 1000 shares of Canadian Javelin Ltd. which were in my possession, but which actually belonged to Merrill, Lynch. After attempting unsuccessfully to cause Edwards & Hanly to return these shares to me or to Merrill, Lynch I decided to close my office.

10. My principle asset now is that same 1000 shares of Canadian Javelin Ltd. It is not really an asset since it belongs to Merrill, Lynch, but Edwards & Hanly has obtained an order of attachment and turned these shares over to the Sheriff so that neither I nor Merrill, Lynch can recover them. Edwards & Hanly is now attempting to cause the N.Y. State Supreme Court to order the sale of these shares so that they can recover on their claim against me of $6,642.and leave Merrill, Lynch without recourse.

11. The opinion dated May 30, 1974 contains numerous factual errors and I wish to bring them to the attention of the Court in the hope that it will reconsider its decision. Relative to my action S. E. C. v. Sloan, 369 F. Supp. 996 (S.D.N.Y. 1974), I was not pro se at the time the consent order of preliminary injunction was entered. I did not officially become pro se until the morning of December 12, 1973, which was the second day of the trial. The fact was that in November, 1973 I met with my counsel and by mutual agreement it was decided that I would appear pro se. Up until that time I had paid a total of $7,200 in legal and accounting fees related to that lawsuit. However, Judge Ward, in a decision dated December 7, 1973, would not grant my counsel leave to withdraw from the case. In fact, he ordered my counsel to sit with me during the first day of the trial, over vigorous objections by my counsel. At the end of the first day of the trial, Judge Ward stated that in his opinion I had represented myself in a competent manner and for that reason he would grant my attorney leave to withdraw. Judge Ward actually signed the order granting leave to withdraw the following morning. At the conclusion of the trial, Judge Ward stated in open court that he felt I had made a mistake in becoming a stock broker instead of a lawyer and that I had handled myself better than many attorneys he had seen in federal practice.

12. On November 19, 1973 I appeared in this Court to oppose four motions to dismiss involving three attorneys. One of the attorneys, Stroock, Stroock & Lavan, representing Loeb, Rhodes & Co., did not appear in court for oral argument, apparently due to a mistake by their calendar clerk. The only opposing attorneys represented were Leonard

Toboroff and Olitt, Friedberg & Kagel. The Court stated that my pleadings did not appear to be proper and did not appear to meet the requirements under the Federal Rules of Civil Procedure in that the circumstances constituting fraud were not stated with particularity. The Court ordered me to file an amended complaint within twenty days. I, however, had not yet formally moved for leave to file an amended complaint, nor was I prepared to do so at that particular point because Judge Ward had already set down my case for trial to commence on December 10, 1973.

13. A few days prior to December 10, 1973 I called the chambers of Judge Bonsal and stated that because of another case which was scheduled to commence on December 10, 1973, I had found that it would be impossible for me to prepare my case for trial and at the same time to file an amended complaint. However, the Judge's law clerk stated that I would not be granted an extension of time and that the best thing I could do would be to write a letter to the Court advising the Court of the circumstances. Accordingly, I wrote a letter dated December 7, 1973, a copy of which I later sent to all of the opposing attorneys.

14. I turned out that I could not have filed an amended complaint by December 10, 1973 for another reason. Due to its length and the necessity for checking the accuracy of all the details contained therein, I could not have completed my task in the 20 days given me by the Court. Even after I had finished writing the amended complaint, it took my clerk, Richard Ilson, a high school student who worked part-time for me, several days to type it. Also, not being a lawyer, I had to learn the proper form for a complaint. In order to do this, I made photocopies of four consolidated

complaints in the Equity Funding litigation and used them as a reference. I chose Equity Funding because Salomon Brothers and several other brokers who had traded in Equity Funding, refused to honor their contracts or to make payment for approximately $8,000,000 worth of Equity Funding shares delivered to them after the S.E.C. had suspended trading in Equity Funding. (Later, however, the New York Stock Exchange forced Salomon Brothers to honor their Equity Funding trades.) I felt that there was a clear analogy between Salomon Brothers and Equity Funding and my situation with respect to Canadian Javelin Ltd.

15. After the trial before Judge Ward had ended on December 22, 1973, I again spoke to Judge Bonsal's law clerk relative to the fact that I was past the time limit which had been set by the Court to file the amended complaint. My feeling at that time was that I should make a motion for leave to file an amended complaint. One reason I thought this was that I had spoken to several opposing attorneys who had complained that Judge Bonsal had abused his discretion by ordering me to file an amended complaint without giving them the opportunity to be heard. I felt that by making a new motion I would eliminate this objection. However, Judge Bonsal's law clerk felt that I should simply file the amended complaint and wait until the opposing attorneys moved to strike it.

16. When I completed the preparation of my amended complaint, I told Judge Bonsal's law clerk that I would be out of the United States during the month of January and that I was going to ask that any motions made returnable during that month be adjourned until February. I arranged to have Richard Ilson pick up my mail regularly and call anybody who sent motion papers to me to ask for an adjournment. When I left for Europe

on December 29, 1973 there was only one motion pending. That was a motion by Stroock, Stroock & Lavan which was essentially a renewal of a motion on which they had defaulted previously. In that case, the motion papers of Stroock, Stroock & Lavan were defective on their face because they were based upon the erroneous assumption that I had filed a previous proposed amended complaint which I did not in fact file.

17. Before I left for Europe I attempted to speak to someone at Stroock, Stroock & Lavan regarding an adjournment, but I was unable to do so, perhaps because this was during the Christmas and New Year holiday period.

18. While I was in Europe I called Richard Ilson by long distance telephone several times to make sure no problems would arise while I was away. He told me he had received motions to dismiss from Edwards & Hanly and Pressman, Frohlich & Frost, Inc. I instructed him to call the law firms involved and also Stroock, Stroock & Lavan to advise them that I was in Europe and to ask for an adjournment until February. At the same time I wrote a letter from Europe to Stroock, Stroock & Lavan, Delson & Gordon, and Bressler, Meisler, Tauber & Lipsitz and to the Court stating the same thing. On the evening before these motions were returnable I called Richard Ilson again, this time from Stockholm, Sweden. He said that he had received motion papers from two other law firms, Booth & Baron and Diamond & Golomb, and that he had called them all and told them that I was in Europe. He also told me that they were unwilling to agree to an adjournment. At that point it was too late for me to do anything to correct this problem because even if I had taken the

next flight back to the United States I would not have arrived in court on time. However, I prevailed upon Richard Ilson to take time from his studies to go to the Courthouse to advise the Court of his unsuccessful efforts to obtain an adjournment. I was later told that, in addition to the five attorneys who had made motions returnable that day, another ten opposing attorneys were present who did not have motions pending.

19. A few days later I called the Judge's chambers from Helsinki, Finland and was told by a different law clerk that I had not been held in default and that Judge Bonsal was considering the matter. I offered to come back to the United States if it would accomplish anything, but it did not seem that it would.

20. Since that time I have been trying to figure out a way to straighten out this situation. It has been apparent to me that something was seriously wrong because nobody answered or moved to strike my complaint dated December 29, 1973. (The motions to dismiss were actually directed against my prior proposed amended complaint dated November 7, 1973 which was substantially the same.) Later, when I submitted two briefs dated April 7, 1974, I did not receive a single response. My motions for summary judgment essentially went unheeded. I considered withdrawing my lawsuit or taking other steps to put things back the way they were before I ever filed my original complaint. I also considered making a motion for leave to file an amended complaint. Finally, I sent a letter dated May , 1974 which again elicited only one response. It seemed to me that there was nothing I could do to correct my past mistakes. Now, after reading the opinion dated May 30, 1974 it is obvious what the situation was.

21. I note that the last page of the opinion states that my complaint would have been dismissed even had it not been for proceedural errors on my part. However, the reasons given by the Court are erroneous. Page 2 of the opinion notes that the amended complaint did not set forth the dates or the prices of my purchases and sales of Canadian Javelin Ltd. The reason for this was that there were more than 100 transactions involved and that the brokers named as defendants could themselves supply this information. Nobody has ever disputed the fact that I was short a lot of Canadian Javelin Ltd. One reason I could not supply this information or state the exact number of shares I was short was that the brokers themselves became evasive when I asked for this information. For example, I never knew that Bache & Co. had bought me in until they introposed a counterclaim in this lawsuit and even then the situation was not clear from the wording of the counterclaim.

22. The specific purchase orders referred in page 3 of the opinion were orders entered by me which were effective on June 20, 1973 and during the period immediately thereafter. At that time the AMEX halted trading in CJV because of a UPI news release which was reported in the Montreal Gazette. A copy of this news release and the related article in the Montreal Gazette is attached hereto and marked Exhibit A.

23. My basic claim with respect to that date is that if the AMEX had not halted trading the price of CJV would have plummeted and I would have covered my short position. Instead, CJV issued a fraudulent press release on June 22, 1973 and Bison Petroleum issued another fraudulent press release on July 5, 1973 which caused the price of shares in CJV

to rise. My interest was in covering my short position at a price in the area of 6 or 7 which would have given me a small profit. Instead, more than a million shares of buying came into the market during this period and the price of CJV quickly rose to 14 5/8. I am not blaming the brokers for not buying CJV while trading was halted. Since trading was halted by the AMEX the brokers obviously had not control over the matter. However, the AMEX did have control.

24. Page 6 of the opinion makes it appear that I am attempting to climb on to the back of litigation instituted by the S. E. C. This is not the case. In the first place, my lawsuit was instituted more than two months prior to the S. E. C.'s proceeding. Furthermore, their lawsuit appears to be based in part at least upon information which I gave them. The fact is that I wrote three letters to the S. E. C. A copy of these letters is attached hereto and marked Exhibit B. While I never received a response to these letters it is now obvious to me that the Commission made use of them. Also, I spoke to Larry Grimes, one of the attorneys who signed the complaint filed by the S. E. C., several times after July 27, 1973. Although he was generally non-committal about the information I gave him, it subsequently became obvious that he made use of it. Also, on or about October 3, 1973 I gave an oral deposition in this lawsuit. An attorney representing Dow Jones & Co. was present and took notes. While giving this oral deposition I described in detail the nature of the fraud which I later described in my amended complaint. On October 25, 1973, an article appeared in the Wall Street Journal which related to the exact statements I had made at the deposition, although the information contained

in that article obviously had been confirmed by independent sources. This article caused a trading halt by the AMEX on that day which continued until the S. E. C. suspended trading on November 29, 1973.

25. Also, as soon as I got back from Panama I called Stephen L. Gerard of the AMEX. Later, I went to his office and spoke to him in person for more than an hour. I told him everything I knew about CJV. However, it was clear to me that he knew much more than I did about CJV and that I knew little, if anything, that he did not know. Perhaps the only thing I knew that he did not know was what the Andes Mountains looked like. At the same time he made it clear that he was not going to take any action to prevent CJV from perpretrating a fraud upon the public. Also, several times when I called Larry Grimes of the S. E. C. he did not take my call. I informed both Stephen Gerard and Larry Grimes that I was short 33,400 shares of CJV. Later, Stephen Gerard called me and asked me the names of the brokers involved and I provided him with that information. This led to calls by the AMEX to the brokers who thereupon closed out my contracts in CJV. These calls also caused Edwards & Hanly to decide to sieze the 1000 shares of Canadian Javelin Ltd. without payment.

26. Page 8 of the opinion reflects an error in my amended complaint. On December 29, 1973 I signed two affidavits, one being the amended complaint and the other being a three page affidavit which I intended to submit to Judge Ward as part of the action entitled S. E. C. v. Sloan supra. Due to an error made either by myself or by Richard Ilson, page 3 of the S. E. C. affidavit became switched with page 43 of the amended complaint.

The apparent reason for this error lies in the difficulty in reading the number 4 on page 43. After I left for Europe, Richard Ilson was unable to submit the affidavit to Judge Ward because he was missing the third page. Later, I submitted page 43 of my amended complaint to Judge Bonsal's chambers together with a covering letter explaining this mistake. It is ironic that this Court would choose to quote in full from an affidavit intended to be submitted in an unrelated lawsuit which came into the possession of this Court by accident. In any event, the point I attempted to make in that affidavit was correct. The controversy arose because in October, 1973, more than two months after I had submitted a form BDW to the Commission, I shipped all of my records to Virginia in order to store them there. As soon as I did that the S.E.C. decided that they wanted to see them. Later, I shipped my essential records back from Virginia and brought them into the courtroom where they remained during the course of the trial before Judge Ward. At one point Judge Ward directed me to produce my trades in Canadian Javelin Ltd. and to demonstrate that I had entered these trades on my books. I complied with this request. His findings on that point are clearly in error because I did disclose fails to deliver in Canadian Javelin Ltd. on the trial balance in question submitted by the Commission into evidence. However, that is a matter relevant to the appeal of the decision of Judge Ward and not presently related to this lawsuit.

27. Page 12 of the opinion states that it appears that I intended to

capitalize on the fraud and that I failed to inform other potential investors. This was not the case and nothing in my amended complaint would indicate to the contrary. My trip to Panama occurred after the losses in question had been sustained. In fact, since the price of CJV subsequently fell from 14 5/8, my losses were somewhat mitigated. In any event my trip to Panama convinced me that CJV probably had found copper mineralization in the Cerro Colorado (in reality, it had been found by a U.N. development team several years earlier), but that the government of Panama was unlikely to permit CJV to exploit this natural resource. The essential knowledge I gained from that trip did nothing but confirm the facts contained in the UPI press release dated June 20, 1973. These facts were confirmed to me by Fernando Manfredo in my telephone conversation with him on July 5, 1973 (paragraph #104 of the amended complaint). When I learned of this situation I immediately called the Montreal office of Dow Jones & Co. and spoke to Stuart Pinkerton (paragraph # 105). Later, I spoke to Larry Grimes of the S. E. C. and Stephen Gerard of the American Stock Exchange (paragraph # 105). It is true that I made no effort to speak directly to potential investors concerning CJV because it is my policy never to give or take advice concerning the stock market. Also, as a matter of policy, I have no dealings with the public. Had I attempted to speak directly to potential investors I might have become a "tipper" and thereby violated federal securities laws. In addition, CJV itself attempted to muzzle me as is demonstrated by the letter of William M. Wismer dated August 3, 1973.

28. I also claim that my complaint demonstrates causation and standing to sue. The following dates in 1973 are most significant with respect to my trading in Canadian Javelin Ltd. on the American Stock Exchange. (This schedule does not reflect trading on the Montreal Stock Exchange which, on many occasions, exceeded trading on the American Stock Exchange in terms of volume.)

Date	Volume	High	Low	Close	Change	Position on Most Active List
June 19	2700	8 1/8	7 5/8	7 7/8	-1/8	
June 20	2300	7 7/8	7 5/8	7 5/8	-1/4	
June 21	TRADING HALTED					
June 22	TRADING HALTED					
June 25	10600	7 7/8	7	7 5/8	Unc	
June 26	2200	7 3/4	7 1/2	7 5/8	Unc	
June 27	1800	7 5/8	7 1/4	7 1/4	-3/8	
June 28	1700	7 3/8	7 1/8	7 3/8	+1/8	
June 29	2800	7 3/8	7 1/8	7 1/4	-1/8	
July 2	2100	7 3/8	7 1/8	7 1/4	Unc	
July 3	6800	7 1/8	6 7/8	7 1/8	-1/2	
July 5	7700	8	7 1/8	8	+7/8	
July 6	7500	8 1/4	7 3/8	7 3/8	-5/8	
July 9	3300	7 3/4	7 1/4	7 3/8	Unc	
July 10	4500	8	7 5/8	7 7/8	+1/2	
July 11	6900	8 1/8	7 7/8	8	+1/8	
July 12	10800	8 3/8	8	8 1/4	+1/4	
July 13	64100	10	8 3/8	9 7/8	+1 5/8	4th
July 16	43200	10 7/8	9 7/8	10 7/8	+1	7th
July 17	53000	10 7/8	9 1/8	9 3/8	-1 1/2	6th
July 18	28000	10 5/8	9 1/4	10 1/2	+1 1/8	
July 19	15300	10 5/8	9 3/4	10 1/8	-3/8	
July 20	36800	11 1/4	10 3/8	11 1/8	+1	7th
July 23	35500	11 7/8	11 1/2	11 3/4	+5/8	9th
July 24	51600	12 1/4	11 1/4	12 1/4	+1/2	5th
July 25	114000	13 3/8	12 3/8	13 1/8	+7/8	2nd
July 26	87500	14 5/8	13	14 1/4	+1 1/8	2nd

At this point, I decided to go to Central America. Trading continued:

July 27	40700	14 3/8	13 1/8	13 3/8	-7/8	7th
July 30	55800	13 5/8	11 7/8	12 3/8	-1	1st
July 31	34300	12 1/4	11 1/4	12	-3/8	8th
Aug 1	68600	13 3/8	11 5/8	13 1/4	+1 1/4	3rd
Aug 2	22400	13 3/8	12 7/8	12 7/8	-3/8	
Aug 3	9100	13	12 1/2	13	+1/8	
Aug 6	4300	12 7/8	12 3/4	12 7/8	-1/8	
Aug 7	27300	13 1/2	12 7/8	13 1/4	+3/8	
Aug 8	24900	13 3/8	12 3/4	13 3/8	+1/8	8th
Aug 9	29500	14	13 3/8	13 3/4	+3/8	6th
Aug 10	9600	13 3/4	13 1/8	13 1/4	-1/2	
Aug 13	10600	13 1/4	12 5/8	12 7/8	-3/8	
Aug 14	24800	13 1/2	12 3/4	13 1/4	+3/8	
Aug 15	11800	13 3/8	12 3/4	13 1/8	-1/8	
Aug 16	5500	13 1/8	12 5/8	12 7/8	-1/4	

29. Simple arithmetic demonstrates the amount of money I must have been losing during this period. Furthermore, the complaint shows causation. Clearly the July 5 press release and the July 6 article in the Wall Street Journal (alleged in paragraphs #94 and #97 of the final amended complaint) contributed to the rise in price of CJV. Furthermore, there can be no doubt that the articles in The Miami Herald on July 17 and July 18, 1973 (alleged in paragraphs #118 and #124 of the final amended complaint) also contributed to that rise. The fact is that I informed Dow Jones & Co. of the false nature of the July 5, 1973 press release the same day it appeared (#105). I later wrote a letter to Dow Jones & Co. to that effect. In its reply, Dow Jones & Co. stated:

> "We have examined copies of the documentation of the concession acquisition, and they appear to be authentic."

However, in an article in the Wall Street Journal dated October 25, 1973, it was revealed that the concession acquisition did not exist. The article, coauthorized by Nick Thomas, implied that Dow Jones & Co.

had been misled as a result of a telephone call to a man who identified himself as Fernando Manfredo. That call was stated to have taken place on July 7, 1973. The article claimed the man had said that Pavonia had been granted the concession. No reference was made to any documents, false or otherwise. However, I spoke to Nick Thomas myself (#109) at the time in question and he told me that Fernando Manfredo had told him exactly what I described in paragraph 22 of my amended complaint. It seems to me that this demonstrates a clear case of fraud on the part of Dow Jones & Co. (It should not be forgotten that the July 5 press release stated that Bison had "acquired" the concession. That was clearly false. The question seems to be whether there was a concession and, if so, who had it. Bison did not have a concession and was not qualified to have one under Panamanian law. Pavonia, however, may have been granted a concession.)

30. I include as Exhibit C a letter I sent to Dow Jones & Co. and the reply thereto. I also include as Exhibit D three letters I sent to the AMEX plus the only reply I received from the AMEX and a subsequent reply by CJV and related correspondence. I also note that at no time did I authorize the AMEX to inform CJV of my communications with AMEX and I was upset when I learned that they had forwarded my letter to CJV. This circumstance led me to believe that there was a conspiracy between Stephen Gerard of the AMEX and William Wismer of CJV. In any event, Exhibits C & D demonstrate that I did attempt to make information in my possession known, but nobody would listen to me.

31. In any event, there was little I could add to the news release carried on June 20, 1973 without effect by UPI. The AMEX and Dow Jones & Co. clearly knew of this news release and did not see fit to disseminate this information or to have it disseminated. My claim on this point is that the most significant information available to me was public information in that it had been filed with the S.E.C. and the AMEX but that due to a conspiracy by the news media this information was never reported by the press. For example, the first quarter earnings report of CJV for 1973 showed a $527,714 loss, but this loss was never reported by Dow Jones & Co. Also, on June 15, 1973, the Wall Street Journal started to quote price earnings ratios for CJV. This was fraudulent since CJV was losing money. Prior to June 15, 1973, the Wall Street Journal had not quoted price earnings ratios for CJV and no explanation was given for this change in policy. The most recent quarterly earnings statement had been dated May 15, 1973 and had showed a loss for that quarter of $527,714 which gave CJV a loss for the year. Somehow, both Dow Jones & Co. and Standard & Poors' Corp. managed to turn a reported loss into a profit. I include as Exhibit E various press releases which prove the basic correctness of my position and demonstrate a prima facie case of fraud against Canadian Javelin Ltd. The related exhibits also demonstrate that the AMEX and Dow Jones & Co. attempted to cover up this fraud.

32. The information which I relied upon in selling short CJV was principally the UPI press release dated June 20, 1973, although I was

short a relatively small number of shares prior to that press release. UPI was unable to cause that information to become widely known. One reason (or excuse) given by Dow Jones & Co. for this was that Dow Jones & Co. does not subscribe to the UPI newsservice. On June 20, 1973, the government of Panama held a press conference concerning CJV and provided all relevant information to the news media. Nevertheless, the information did not become widely known then and still is not generally known. Recently, on May 3, 1974, the Wall Street Journal carried an article which demonstrates that CJV is attempting to perpetrate the same fraud all over again. Even the attorneys to this law suit who have read my amended complaint fail to understand the fallacy upon which that article is based. Since the time of the filing of the orginal complaint in this action, theprice of CJV has gone from 13 to 18 and back to 15. Later, it was suspended by the S. E. C. and then it reappeared on the Montreal Stock Exchange, where it started trading at 13, fell to 7, rose again to 14, and is now trading at 12. One reason for these gyrations is that CJV has recently issued two press releases, one relating to the action before this Court. Although one is undated, both were mailed in the same envelope. A copy of these press releases is attached hereto and marked Exhibit F.

33. I still own the same 13 shares of CJV. I did not include this fact in my last amended complaint because I felt it was not germane to this lawsuit and would only confuse the issues.

34. The opinion of this Court is unclear with respect to Bache & Co. Since the complaint has been dismissed it would appear that the counter-

claim by Bache & Co. has also been dismissed. However, it appears from the last page of the opinion of this Court that the litigation between myself and Bache & Co. will somehow continue. It also appears that I must defend against Bache & Co. and also defend in the State Court actions while being, in effect, stayed from interpleading CJV, Doyle, and Wismer. I submit that this disposition of this case defies logic and is not likely to satisfy anyone, particularly Bache & Co.

35. For all of these reasons, I feel a motion pursuant to Rule 59 F.R.Civ.P. should be granted and that I should be granted leave to file an amended complaint without prejudice to any motions by the opposing parties to strike it. In the alternative, I ask that I be permitted to withdraw this lawsuit without prejudice so that I may be permitted to purchase a new index number and file a new complaint naming the same defendants as are named in this complaint in which case the Judge in this new lawsuit will be determined by lot in the usual manner, unless the Court directs me to have this new lawsuit referred either to Judge Bonsal or to Judge MacMahon. If I am permitted to file a new complaint under a new index number without prejudice, the summons and complaint will, of course, be served again in accordance with the normal manner prescribed by the rules of this Court.

WHEREFORE, Plaintiff respectfully prays that his motion pursuant to Rule 59 F.R.Civ.P. and Rule 15(a) F. R. CIV. P. be granted.

Samuel H. Sloan

SAMUEL H. SLOAN

Sworn to before me this
4th day of June, 1974.

Helen Freiberg

NOTARY PUBLIC

BY J. PAUL HYATT

PANAMA CITY (UPI)-- PANAMA HAS POSTPONED FOR AT LEAST TWO MONTHS TALKS WITH CANADIAN JAVELIN LTD. IF IT DRAWS UP A NEW MINING CODE, COMMERCE AND INDUSTRIES MINISTER FERNANDO MANFREDO SAID WEDNESDAY.

THE MINISTER ALSO REPORTED THE GOVERNMENT IS RENEGOTIATING A PETROLEUM CONCESSION GRANTED LAST MONTH TO TEXACO AND INDICATED IT MAY BREAK OFF TALKS WITH A JAPANESE CONSORTIUM HEADED BY MITSUI FOR ANOTHER COPPER MINING DEAL.

MANFREDO MADE HIS REMARKS AT A LUNCHEON OF THE FOREIGN CORRESPONDENTS CLUB OF PANAMA.

A DRAFT PROPOSAL SUBMITTED BY CANADIAN JAVELIN LAST MAY 7 TO DEVELOP THE RICH CERRO COLORADO COPPER DEPOSIT, CONSIDERED BY SOME GEOLOGISTS AS THE WORLDS BIGGEST, WAS SHELVED AND THE COMPANY WAS TOLD IT WOULD HAVE TO AWAIT THE APPROVAL OF A NEW CODE BEFORE NEGOTIATIONS COULD RESUME, MANFREDO SAID.

"WE SHOULD HAVE THIS NEW CODE WITHIN TWO MONTHS," THE MINISTER ESTIMATED.

HE SAID TWO NEW FEATURES OF THE DRAFT NOW BEING CONSIDERED BY PANAMAS LEGISLATIVE COMMISSION CALL FOR A GOVERNMENT REPRESEINTATIVE ON THE BOARD OF DIRECTORS OF FOREIGN MINING COMPANIES OPERATING IN PANAMA AND PERIODIC REVISION OF CERTAIN TERMS OF THEIR CONCESSIONS.

"WHATEVER DECISION THE BOARD OF THAT COMPANY TAKES CAN AFFECT THE COUNTRY AND THEREFORE THE COUNTRY SHOULD BE REPRESENTED," MANFREDO SAID.

"THE PRESENCE OF A GOVERNMENT REPRESENTATIVE, WHO WILL HAVE VOICE BUT NO VOTE, ALSO WILL MEAN THAT THE GOVERNMENT WILL BE MORE AWARE OF THE COMPANY'S PROBLEMS," HE SAID. "IT WILL NOT BE AN OBSTACLE FOR THE COMPANYS OPERATIONS IN THE COUNTRY."

ALTHOUGH MANFREDO BEGAN HIS REMARKS ON CERRO COLORADO BY SAYING, "WE DO NOT HAVE SUFFICIENT INFORMATION TO SUPPORT THE CLAIMS OF CANADIAN JAVELIN THAT THIS IS THE BIGGEST COPPER DEPOSIT IN THE WORLD," LATER ON HE ADDED, "I AM CONVINCED THAT THERE IS A GREAT DEPOSIT THERE."

THE MINISTER DENIED THAT THE TEXACO EXPLORATION CONCESSION HAD BEEN REJECTED. HE SAID ONE CLAUSE DEALING WITH ARBITRATION THAT RAN CONTRARY TO THE TENETS OF THE 1972 CONSTITUTION ON THE SUBJECT "WAS OBJECTED TO" BY THE LEGISLATIVE COMMISSION.

HE ALSO ACKNOWLEDGED THAT THERE HAD BEEN SOME "MISINTERPRETATIONS" OF A CLAUSE GIVING TEXACO AN OPTION TO BUILD A TRANSISTHMIC PIPELINE FOR THE EXCLUSIVE PURPOSE OF PUMPING ITS OWN CRUDE OIL FROM THE ATLANTIC, WHERE THE CONCESSION IS, TO THE PACIFIC OCEAN.

"SOME MEMBERS OF THE COMMISSION INTERPRETED THIS TO MEAN THAT THE PIPELINE WOULD BE USED FOR COMMERCIAL ENDS, BUT THIS IS CLEARLY NOT AUTHORIZED IN THE LANGUAGE OF THE CLAUSE," HE SAID.

NEGOTIATIONS WITH THE JAPANESE CONSORTIUM TO MINE COPPER AT THE PETAQUILLA AREA, WHICH APPEARED NEAR COMPLETION LAST MONTH, ARE CONTINUING, MANFREDO SAID. HE ADDED, HOWEVER, THAT THE GOVERNMENT "IS NOW THINKING ABOUT MINING THE COPPER RESERVES ITSELF."

THE MINISTER SAID PANAMA HAD ASKED FOR THE OPINIONS OF GOVERNMENT MINING SPECIALISTS IN PERU, CHILE, MEXICO, CANADA AND SOUTH AFRICA ON THE DRAFT OF ITS NEW MINING CODE.

RESOLVED..

The Gazette

The Report—Business and Finance

Pages 33 to 40, Thursday, June 21, 1973

Javelin copper deal delayed by Panama

PANAMA CITY — (UPI) — Panama has postponed for at least two months, while it draws up a new mining code, talks with Canadian Javelin Ltd. for a major copper mining concession, Commerce and Industries Minister Fernando Manfredo said yesterday.

The minister also reported the government is renegotiating a petroleum concession granted last month to Texaco and indicated it might break off talks with a Japanese consortium headed by Mitsui for another copper-mining deal.

Manfredo made his remarks at a luncheon of the Foreign Correspondents Club of Panama.

A draft proposal submitted by Canadian Javelin last May 7 to develop the rich Cerro Colorado copper deposit, considered by some geologists as the world's biggest, was shelved and the company was told it would have to await the approval of a new code before negotiations could resume, Manfredo said.

"We should have this new code within two months," the minister said.

TWO FEATURES

He said two new features of the draft now being considered by Panama's legislative commission call for a government representative on the board of directors of foreign mining companies operating in Panama and periodic revision of certain terms of their concessions.

"Whatever decision the board of that company takes can affect the country and therefore the country should be represented," Manfredo said.

"The presence of a government representative, who will have voice but no vote, also will mean that the government will be more aware of the company's operations in

SAMUEL H. SLOAN
11 BROADWAY · ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

A-209

July 22, 1973

Larry Grimes
S.E.C.
Washington D.C.

Dear Mr. Grimes

Enclosed is a clipping from the Montreal Gazette of June 21, 1973, and the original UPI news release dated June 20, 1973. The American Stock Exchange halted trading immediately upon publication of this article, apparently at the request of the company. To the best of my knowledge it was not reprinted anywhere in the U.S. The company has never released a statement clarifying the differences between this news article and statements previously issued by Canadian Javelin. I have gone to great lengths to determine the accuracy of this and a great many other news articles concerning Javelin. The American Stock Exchange has not been particularly helpful. They have spoken to me on the telephone, but they refused to reply in writing to the two letters I wrote them concerning Javelin, a copy of one which is enclosed.

Recently there was a news article published in the Wall Street Journal(July 6, 1973), which stated that Bison Petroleum and Minerals had aquired a 200.000 acre mineral concession from the Government of Panama. This statement was untrue. Apparently Bison

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A--210

did purchase an existing mineral concession from Pavonia, S.A. another subsidiary of Javelin. The terms of the purchase and the price paid have not been disclosed.

As a shareholder of Canadian Javelin I am concerned by the numerous conflicting statements concerning Canadian Javelin and the fact that I am unable to obtain a resolution to these conflicts. I remember in the not so distant past, Javelin claimed to own the timber rights to 300.000.000 acres of forrest land in Newfoundland. This claim turned out to be based on fictious documents provided by and undisclosed Lichtenstein corporation. I would appreciate any help you could provide in resolving these conflicts.

Very Truly Yours,

Samuel H. Sloan

Samuel H. Sloan

SHS/aq

A-211

March 14, 1973

Securities Exchange Commission
Washington, D. C.

Dear Sirs:

Enclosed please find a letter which I have written to the American Stock Exchange. Since I am not sure that the Exchange is the proper place to direct such an inquiry, I decided to write an identical letter to your offices. Please accept this letter as though I had written it directly to you and send an appropriate reply to me. I would also appreciate it if you would clear up a question which exists in my mind as to who has jurisdiction over companies which are listed on a stock exchange with regard to questions such as this.

Very truly yours,

Samuel H. Sloan

Samuel H. Sloan

Enc.

A-212

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

August 10 1973

Larry Grimes
Securities and Exchange Commission
Washington, D.C.

Dear Mr. Grimes,

The purpose of this letter is to make a formal complaint concerning trading activity in Canadian Javelin Ltd.("CJV), and to request that the Commission suspend trading in this security. I also request that the Commission investigate and conduct hearings concerning its trading activity. The reasons for this request are as follows:

1. On June 20, 1973 the Government of Panama through its Minister of Commerce and Industry, Fernando Manfredo made a formal announcement to members of the press that it was terminating its negotiations with Canadian Javelin Ltd. I spoke to the Director of Mineral Resources of Panama in person on July 27, 1973 and by telephone on Aug. 8, 1973, and he advised me that this situation has not changed. This fact has not been disclosed to the public nor is it generally known.

2. Canadian Javelin has issued a statement that "The government of Panama has in no way suggested that the burden on Canadian Javelin Ltd." under a proposed new mining code would be heavier than under present regulations." This carefully worded statement avoids, but does not dispute the statement by Fernando Manfredo and tries to create a false impression that nothing has changed with respect to the situation in Panama.

3. Due to the political situation in Panama particularly with respect to the Panama canal it seems unlikely that negotiations will resume in the near future. Panama on one well publicized occasion threatened to attack the Canal Zone.

4. It appears that the approximately $14,000,000 Canadian Javelin claims to have spent on the Panamanian drilling operation as stated in their balance sheet will have to be written off as a loss.

5. Canadian Javelin has widely circulated information that it has delineated an area of 2.2 billion tons of copper bearing minerals. I spoke to George Mickum, council for the company and asked him to tell me either what calculations were involved in producing this figure or what qualified geologist has made this computation. Mr Mickum refused to answer me and questioned my motives in raising such an issue. I feel this is the routine sort of question that any securities analyst would ask. Mr Mickum stated that the basis for these calculations has been reviewed and received the approval of the S.E.C. and if there were any questions concerning the basis for these calculations he wase sure that the S.E.C. would suspend trading in CJV immediately. He also stated that representatives of the S.E.C. had visited the drilling sight, had received detailed information concerning the nature and extent of the drilling, and was satisfied that nothing irregular was taking place.

6. In spite of the assurances by Mr Mickum that nothing was irregular there is a question in my mind as to wheather his statements are accurate. I visited the drilling sight in Panama and neither the geologists employed there nor the geologists employed by the government of Panama to investigate and analyze the results of the drilling had any idea where 2.2 billion ton figure came from. Furtheremore the S.E.C. office of Mining Engineering has advised me that they have no information

to back up this figure and they dispute directly some of Mr Mickum's statements

7. I have received numerous telephone calls from stock brokers who have heard that CJV has an immense copper find in Panama and is about to release the news that they have obtained financing for the construction and development necessary. for this project. I also received a call an individual who claimed the stock would go to between $100 and $500 a share. I believe that these kind of calls indicate that the public has been greatly misled concerning the nature of Javelins work in Panama.

8. On April 1, 1971 the Commission issued release #9125 which placed a burden upon brokers to use due diligence before effecting transactions in this security. I believe that I have satisfied this requirement but that many brokers have generally ignored this release.

9. Due to the nature of the recent trading activity in Canadian Javelin many brokers are unable to consumate the transaction into which they have entered. As a result there is a substantial fail position in the street so much so that brokers have become unable to effect buy-ins. As a result it appears that a number of brokers will suffer a severe financial loss. It also appears that if the present situation is allowed to continue CJV will trade at a substantially higher price in the immediate future which will further aggrevate the loss of these brokers and will be detrimental to the protection of the public.

10. It is generally known and agreed the CJV has engaged in fraudelant and deceptive practices for more than 20 years and that the chairman of the company has been convicted and sentenced for ignoring the regristration requirements of the 1933 and 1934 Acts. The situation in Panama is not dissimilar to the situation which has existed in the past in

Newfoundland, Laborador, Julian Lake, and Lake Wabush in which the company made wild projections which never come to fruition. In light of the history of this company it would seem reasonable to assume that the statements of the Government of Panama are accurate.

11. I note that even respectable financial reporting services have made misstatements concerning the financial condition of CJV. For exemple Standard & Poor's reports that CJV earned 3¢ last year whereas in reality it reported a substantial loss.

12. I have been informed by PICKANS MATHER & CO which is the managing agent for LAKE WABUSH property from which CJV receives all of its income, approximately $4.5 million per year, that due to problems CJV is having Pickans Mather does not make any money payments directly to CJV but rather uses the money to pay creditiors, lawers, and others to whom CJV owes money. For this reason I question the accounting methods which are used to calculate the income of CJV.

I enclose various correspondence and news releases to support the above statements.

Very Truly Yours,

Samuel H. Sloan

C.C. Stephen Gerard
American Stock Exchange

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

A-216

July 23, 1973

Dow Jones & Co.
22 Cortlandt St.
New York N.Y. 10007

Dear Sirs,

On July 5, 1973 you carried a news article on the Dow Jones News Service concerning Canadian Javelin Ltd. The information in this article was repeated in the Wall Street Journal on July 6, 1973. The information contained in this article was untrue.

I spoke to the Minister of Commerce and Industry in Panama, Fernando Manfredo, on the telephone in Panama on July 5, 1973 to confirm the story contained in this article. He said that the statement was untrue and furthermore that under the present Panamanian mining code no outside company could engage in mining activities in Panama. I enclose a copy of a UPI news release, dated June 20, 1973 which confirms this fact.

After learning that the information contained on the broad tape was untrue I immediately contacted your New York and Montreal offices to express my concern. Their position was that the Dow Jones was essentially correct and they would not print a retraction or a clarification. This position was not justified by the facts. According to them Bison purchased the concession, not from Panama but from another subsidiary of Javelin. In fact they said, this was not a purchase at all but merely a transfer of an existing right.

July 24/73
RECD. SAME M. S. Reso

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

They acknowledged that Javelin does not have the right to mine copper in Panama.

Since the publication of this untrue article, Javelin has become one of the most actively traded securities on the American Stock Exchange. You are no doubt aware of the damage caused to shareholders and purchasers of any security which has been the subject of false and misleading press releases. You are further, no doubt aware of your responsibility as a reputable news agency to varify the accurancy of the stories you print. In addition you are doubtless aware of the incalculable damage which has been done to Javelin shareholders in the past as a result of false, misleading and deceptive news articles published by you in your news services. Javelin was suspended by the S.E.C. in 1971 and again in 1972, in the later case as a direct result of a feature article which you carried a few days before the suspension.

Because of your flagarant disregard for the rights of Javelin shareholders to receive accurate information concerning their company, I am considering taking legal action against you agency. Prior to so doing I would like to give you this opportunity to clarify your position with regard to the issues I have raised. I would appreciate your response as soon as possible.

Very Truly Yours,
Samuel H. Sloan
Samuel H. Sloan

SHS/aq

THE WALL STREET JOURNAL DOW JONES & COMPANY, INC.
Publishers

FREDERICK TAYLOR
MANAGING EDITOR

August 6, 1973

Mr. Samuel H. Sloan
11 Broadway
New York, N. Y. 10004

Dear Mr. Sloan:

I am in receipt of your letter of complaint regarding our story of July 6 about Canadian Javelin and its activities in Panama.

I believe there is some confusion in your mind between what our story said, and your interpretation of what Mr. Manfredo told you.

Your position seems to be that Mr. Manfredo said no new concession had been issued to an outside concern by the Panamanian government. But Mr. Manfredo told our reporter that the government did issue a new concession to Pavonia, a Panamanian concern, about a month earlier. Bison then acquired the concession from Pavonia. The concession permits the exploration for minerals, but it isn't a license to exploit the property.

We have examined copies of the documentation of the concession acquisition, and they appear to be authentic.

In short, I believe our story was correct.

Sincerely yours,

Frederick Taylor

A-219

SAMUEL H. SLOAN
120 LIBERTY STREET · ROOM 302
NEW YORK, NEW YORK 10006

732-4961

March 14, 1973

American Stock Exchange
86 Trinity Place
New York, New York 10006

Dear Sirs:

I have been the owner of stock in Canadian Javelin Ltd. for almost a year. These shares are listed on your exchange. It has always been my policy to try to keep abreast of financial developments within the companies in which I have an interest. As a result, I have attempted, unsuccessfully it would seem, to obtain a current financial statement on this company.

During the time that I have been a shareholder I have received a number of communications from the company which contain various promotional materials such as pictures of their drilling operations in Panama, projections concerning potential copper output, and feasibility studies on their drilling operation. However, I have not received any financial information with the exception of a balance sheet dated December 31, 1972, which was contained in their annual report for 1972. I have not received any quarterly or semi-annual earnings reports or statements.

It is my understanding that according to the rules of the American Stock Exchange all companies whose shares are listed on that exchange are required to provide current and accurate financial information to their shareholders on a quarterly basis. If this is correct, then I request that the American Stock Exchange instruct Canadian Javelin to provide these delinquent reports to me and to the other shareholders.

I would appreciate a prompt reply to my letter. I telephoned the American Stock Exchange three times in the past year to discuss this problem and on each occasion the official who handles these matters was unavailable to speak to me.

Very truly yours,

Samuel H. Sloan

Samuel H. Sloan

A-220

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

April 19, 1973

Mr. Charles Stevens
American Stock Exchange
86 Trinity Place
New York, N.Y.

Dear Mr. Stevens:

It has come to my attention that Canadian Javelin Ltd. did not hold an annual meeting for the year 1972. This fact was confirmed to me by their attorneys Steptoe and Johnson. Their last annual meeting was held on June 22, 1971 based upon the proxy materials which are on file in your library. I have been a shareholder of record of this company for more than a year and I am extremely anxious to receive some sort of financial information and to attend their annual meeting regardless of where it is held. I understand that this failure to hold an annual meeting is both a violation of Canadian Corporation Laws and the rules of the American Stock Exchange. Could you please advise me in writing as to what steps you have taken to correct this problem.

I wrote the American Stock Exchange concerning this company on March 14, 1973. To date my letter has not been answered. Therefore I am sending you a copy of this letter by hand and ask that you give it your immediate attention. I note that Canadian Javelin has still not sent its annual report for 1972 to its shareholders.

Very truly yours,

Samuel H. Sloan

Samuel H. Sloan

BY HAND

Received 4/19

A-221

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

July 23, 1973

Mr. Steven Gerard
American Stock Exchange
86 Trinity Place
New York N.Y. 10006

Dear Mr. Gerard,

As you know, for more than a year I have made a diligent effort to keep abrest of new developments in Canadian Javelin Ldt. I have read all the 10-K, 8-K, and 10-Q reports for the past several years as well as all the annual reports, proxy statements, news releases and other reports on the company. On March 14, 1973 I wrote you a letter and when that was misplaced by your offices I wrote a second letter. I have not recieved a written reply to these letters. Even though the letter is no longer current I feel entitled to receive a reply from your offices for my records and for that reason I enclose a copy of it.

A number of questions have arisen with respect to the financial position of Canadian Javelin. I believe I have spoken with every possible person who might know the answers to these questions and the results have been conflicting. Since Canadian Javelin is located outside the United STates there is no way for me to compel them to provide accurate information. However since you have the obligation to exercise due diligence to see that information is ~~discriminated~~ DISSEMINATE to the shareholders, I would feel that you should be able to provide

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

answers to my questions and indicate the sources from which these answers were obtained. My questions are as follows:

1. Has Canadian Javelin Ltd. discovered a copper ore body in Panama?
2. If so is it feasible to exploit this ore body?
3. What happened to the timber rights to 300.000.000 acres of forest land in Newfoundland which Javelin preveously owned?
4. What were the results of the audit conducted by Peat, Marwick in 1972 concerning the respective liabilities of Canadian Javelin and the Governm ent of Newfoundland in the linerboard mill project?
5. Under the Panamian mining code can Canadian Javelin Ltd. or any other company be granted the right to exploit the mineral resources of Panama?
6. What are the terms and condition under which Canadian Javelin has the right to explore for copper in Panama?
7. Under what conditions can Javelin recover the money already spent on this project?
8. Did Bison Petroleum & Minerals acquire a 200.000 acre mineral concession from the government of Panama as was stated in the Wall Street Journal on July 6, 1973?
9. If Bison did not acquire this concession from Panama who did it acquire it from and what were the terms of the acquisition and the new mineral concession?
10. How much royalty income is Javelin presently receiving from the JAVELIN-WABUSH Contract?

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

11. What is the current status of the $4,263,405 account receivable and the arbitration under the NEWFOUNDLAND JUDICANRE ACT and the claims of the Government of Newfoundland with respect ot the linerboard mill project?

12. How likely is it that Javelin will be mining copper in Panama in the forseeable future?

All of these questions are of material importance in evaluating Canadian Javelin Ltd. and the answers to them should be made available to all shareholders. Since my questions are reasonably explicite I feel they should not be unnecessarily burdensome if answers are available. I not that in the past week Canadian Javelin has usually made the most active list, presumably because of its copper concession in Panama.

I would appreciate a reply to my inquiring as soon as possible.

Very Truly Yours,

Samuel H. Sloan

Samuel H. Sloan.

A-224

American Stock Exchange Inc.

86 Trinity Place
New York NY 10006
212/938 2484

Steven L Gerard
Assistant Vice President
Securities Division

July 31, 1973

Mr. Samuel H. Sloan
Room 403
11 Broadway
New York, New York 10004

Dear Mr. Sloan:

Thank you for your letter dated July 23. 1973 concerning Canadian Javelin Ltd.

As I have indicated to you in your numerous telephone calls to me, the letter which you purportedly sent to the Exchange dated March 14, 1973 was apparently never received and accordingly, no answer could be forthcoming from the Exchange. The requirements of the American Stock Exchange provide that listed companies cause their quarterly statements to be published in the generally recognized financial media (Wall Street Journal) and that they file with the Exchange a copy of all Forms 10Q which are filed with the Securities and Exchange Commission.

If you have reviewed the information maintained in the Exchange's public library, then you will note that there is a copy of each of the Company's Form 10Q for the last few years. I am happy to furnish you with a copy of the latest such Form for the quarter ended March 30, 1973.

As to the numerous questions raised in your letter of July 23, I am happy to enclose a copy of the Company's Annual Report, recent press releases, as well as reprints of certain newspaper articles which have recently appeared.

The responsibility of the American Stock Exchange is to provide a fair and orderly market place for the securities of its listed companies. Included in that responsibility is the understanding that a fair market place is one in which investors are provided with accurate and timely disclosure in order that they may make an informed investment decision.

However, as I am sure you will appreciate, it is not the responsibility of the Exchange, nor is it in our capacity, to respond to detailed questions concerning the operations of our listed companies. I am, however, taking the liberty of forwarding your letter to Mr. William Wismer, President of Canadian Javelin Ltd. with the hope that the Company will be able to more satisfactorily fill your request.

Thank you for your continued interest in American Stock Exchange issues and if I can be of any additional service, please do not hesitate to contact me.

Sincerely,

SLG:lck
Enclosures

A-226

TEL. (514) 842-5831

TELEX 05-24316

Canadian Javelin Limited

EXECUTIVE OFFICES

1115 Sherbrooke St. West

Suite 2703

Montreal 110, Quebec

August 3, 1973

Mr. Samuel H. Sloan,
Room 403,
11 Broadway,
New York, N. Y. 10004,
U.S.A.

Dear Mr. Sloan:

I have duly received from Mr. Steven L. Gerard of the American Stock Exchange Inc. a copy of your letter to him of July 23rd and a copy of his reply thereto dated July 31st, 1973. I note that Mr. Gerard has sent you a copy of our Annual Report, recent press releases and reprints of recent newspaper articles.

It appears that you have received all the information available to shareholders of the Company generally. However, we have no record of your attendance at the Company's annual meeting held on May 9th, 1973. If there is any information furnished to shareholders or in press releases which you have not received, I shall be glad to make same available to you.

I have been advised that you arrived in the Republic of Panama on Friday morning July 27th last and that you visited Canadian Javelin's Cerro Colorado copper properties on July 28th. The Company will, therefore, hold you responsible for the authenticity of any information which you may see fit to disseminate.

Yours truly,

W. M. Wismer,
President

WMW/sc
cc Mr. Steven L. Gerard,
American Stock Exchange Inc.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT UNDER SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934.

For Quarter Ended March 31, 1973 Commission file number 1-4192

CANADIAN JAVELIN LIMITED
(Exact name of registrant as specified in its charter)

CANADA	13-131818111
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

Javelin House, 109 Water Street, St. John's, Nfld. _____
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code 709-722-5291

A. Summarized Financial Information

Canadian Javelin Ltd. - Consolidated Report:

Profit and Loss Information — For the 3 Months Ended:

	March 31, 1973	March 31, 1972
1. Gross sales less discounts, returns and allowances	$ 46,009	$ 40,378
2. Operating revenues	$ 310,816	$ 477,613
3. Total of captions 1 and 2	$ 356,825	$ 517,991
4. Costs and expenses - -		
(a) Cost of goods sold	$ -	$ -
(b) Operating expenses	$ 103,891	$ 76,591
(c) Selling, general and administration expenses	$ 448,981	$ 507,041
(d) Interest expense	$ -	$ -
(e) Other deductions, net	$ 435,187	$ 133,425
Total costs and expenses	$ 988,059	$ 717,057
5. Income (or loss) before taxes on income and extraordinary items	$ (631,234)	$ (199,066)
6. Provision for taxes on income	$ -	$ -
7. Minority interest	$ 93,061	$ 290
8. Income (loss) before extra-ordinary items	$ (538,173)	$ (198,776)
9. Extraordinary items, less applicable income tax	$ 10,459	$ (39,000)
10. Net income (or loss)	$ (527,714)	$ (237,776)
11. Earnings per share		
12. Dividends per share		

B. Capitalization and Stockholder' Equity

		Amount
Debt		
Short-term loans, notes, etc.		$ 3,397,550
Long-term debt, including parenthetically portion due within one year		5,540,007
Total debt		$ 8,937,557
Deferred credits		$ 25,267,886
Minority interest		$ 342,982
Stockholders' equity		
	Shares issued or outstanding	Amount
Preferred stock	-	$ -
Common Stock	6,468,175	$ 35,497,311
Less shares held in trust	50,470	548,096
Capital in excess of par value		$ -
Capital surplus arising from redemption of preferred shares		$ 588,860
Retained earnings --		
Balance at beginning of current fiscal year		$ 1,878,184
Prior period adjustments		$ -
Net income (loss)		$ (527,714)
Dividends		$ -
Other credits (charges)		$ -
Balance at end interim period		$ 1,350,470
Treasury stock		$ -
Total stockholders' equity		$ 36,888,545

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Canadian Javelin Limited
(Registrant)

Date May 15, 1973

P.J. DeSantis
Secretary

A-231

TEL. (514) 842-5831 TELEX 05-24316

Canadian Javelin Limited

EXECUTIVE OFFICES
1115 Sherbrooke St. West
Suite 2703
Montreal 110, Quebec

June 27, 1973

Dear Shareholder:

Enclosed you will find a copy of a press release to provide you with the complete text given by your Company to the press for release Monday, June 25, 1973.

The text is self explanatory. However, your management in particular believes it is very important to each shareholder in assessing his Company's results to know the favourable and serious desire to participate by international recognized leaders of the copper industry in development of its copper discoveries at Cerro Colorado in Panama.

CANADIAN JAVELIN LIMITED

A-232

TEL. (514) 842-5831

TELEX 05-243

Canadian Javelin Limited

EXECUTIVE OFFICES

1115 Sherbrooke St. West

Suite 2703

Montreal 110, Quebec

June 22, 1973

PRESS RELEASE

FOR RELEASE MONDAY A.M.

Mr. John C. Doyle, Chairman of the Executive Committee of Canadian Javelin Limited, in charge of the Company's Cerro Colorado copper deposit in Panama, stated today from Panama that Minister Fernando Manfredo's statement made it clear and confirmed that the Company has delineated one of the world's largest copper mines. He stated the Company is now moving from the exploration stage to that of construction. He also explained that the Company has been consulted and provided with drafts of the new Minteral Code under consideration, and further has been asked for its suggestions. Mineral Code under consideration, requested Mr. H.J. Price (former Superintendent of Anaconda's Chuquicamata mine in Chile, the world's largest existing copper mine) and now General Manager of Canadian Javelin's Cerro Colorado copper deposit, to act as consultant and to assist and advise the Government on the provisions of the new Code. In no way has the Government suggested that the burden on the Company would be heavier than that provided under the present exploration contract that assures the Company's rights to exploit the copper under the present Mineral Code.

It has been the policy of Canadian Javelin to include Government representatives on the Board of Directors of the Company, as was done in the development of its Wabush iron ore mines. The company official stated that it would be particularly appropriate in Panama where the Company has enjoyed a very good and co-operative relationship with the Government. Elements of importance, due to the size of the Cerro Colorado copper project in the Republic of Panama, are available labour, a potential increase in Panamanian export trade balances and the environmental aspect singular to the mine which is located near the summit of the central mountain range, equal distance from both oceans (30 miles from both the Atlantic and the Pacific). The mechanics of disposing of 62,000,000 tons of tailings per year with which it is planned to fill the pestilential swamp bordering the oceans and thereby improve local living conditions.

The Company executive pointed out that the mine power supply to be installed will be greater than the total present electrical generating capacity of Panama. He stated that the physical task to be accomplished may be compared to the Panama Canal in that in the first fifteen years of operation it is expected that the total material extracted in this open pit mine will be greater than the total yardage excavated in building the Panama Canal itself.

The Chairman stated that the size of the Cerro Colorado deposits their company engineers had calculated in early June, 1973, was approximately 2,271,000,000 tons, indicated by drilling. The Cerro Colorado ore body appears to be the world's largest copper deposit. This is based on the fact that the Chuquicamata copper mine in Chile, generally considered to have been the world's largest, had an original size, according to published records, of 2,000,000,000 tons. Many hundreds of million tons have been mined during its fifty-seven years of operation. The Company official stated that the Company has been advised by one of the world's foremost geological consulting firms, Watts, Griffis and McOuat Ltd., Toronto, Canada, that the potential reserves are expected to be in excess of 3,000,000,000 tons. These geologists, along with other consultants, have been retained by Javelin to assist the Company staff in preparing the mining plan.

Mr. Doyle also revealed that the Company has now completed Hole 106 which, based on published records, is the longest continuous vertical intersection of copper mineralization in the history of mining. The test hole, when terminated four-fifths of a mile deep in the earth (approximately 4,400 feet) was still in good copper mineralization of commercial grade.

The Company official further stated that the Cerro Colorado copper deposits have attracted the attention of the world's foremost mining and fabricating companies. He said serious discussions have been held and are continuing between the Company's representatives and Noranda Mines Ltd., Placer Development Ltd., of Canada, De Beers Consolidated Mines Ltd., Anglo-American Ltd. of South Africa, who are the world's largest producers of diamond and gold and amongst the biggest producers of copper, Standard Oil of Indiana, British Kynoch Metals Ltd., a company jointly owned by British Insulated Callender's Cables Limited, the world's largest user of elemental copper, and Imperial Metal Industries Ltd., a subsidiary of Imperial Chemical Industries Ltd., Outokumpu Oy of Finland, Norddeutsche Raffinerie A.G., Germany's largest refiner and producer of copper, Pechiney of France, Rio Tinto Patino, Madrid and many others. These discussions, while not finalized, have resulted in assuring the Company of long term sales of blister and copper concentrates that would be sufficient to sustain mining and processing at a rate of more than 100,000 tons per day.

He also pointed out that most of these companies have agreed with Javelin that the immense size of these deposits indicates a desirability of the establishing of a copper smelter in Panama. The establishment of this smelter in itself requires changes in Panamanian regulations governing mineral development.

Finally, Mr. John C. Doyle pointed out that a group of consultants working on the project led by Wright Engineers Ltd. of Vancouver, Canada, are sizing equipment, completing the pricing and determining all relevant economic and cost factors. This work is scheduled to be completed early in August of 1973 and the Company expects to be ready shortly thereafter with the financing and marketing completed to enable the establishment of a mining and milling installation which, when fully operative, would have a capacity of 176,000 tons per day. Recent bulk sampling of the minerals to be mined during the first fifteen years have been tested by Lakefield Research Laboratories, Lakefield, Ontario. These tests have assayed an average grade of .81% copper, with additional minor contents of gold, silver and molybdenum. These metals, with large scale mining, should add substantial dollar values to the copper production.

There is now at Cerro Colorado a technical staff of Panamanian and Canadian engineers, geologists, drillers, and approximately three hundred Panamanian construction and exploration employees.

NEW YORK POST 6/25/73

Canadian Javelin Ltd. was lower at one point. Trading in the issue was halted on Friday pending announcement that a new proposed mine code in Panama will not hurt the company's project there for exploration of a large copper-molybdenum deposit.

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-CANADIAN JAVELIN UNIT SAYS IT ACQUIRED 20[illegible]0 0 ACRE MINERAL CONCESSION IN PANAMA

JUL - 5 1973

12:35

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CANADIAN JAVELIN UNIT - PANAMA CONCESSION

JUL - 5 1973

1:52

MONTL -DJ- BISON PETROLEUM & MINERALS LTD [illegible] OWNED BY [illegible] JAVELIN LTD SAID IT HAS ACQUIRED A 200 00-ACRE MINERAL CONCESSION FROM THE GOVERNMENT OF PANAMA.

BISON SAID THE CONCESSION IS KNOWN TO CONTAIN GOLD SILVER AND OTHER METALS.

THE AGREEMENT CARRIES THE RIGHT TO PROCEED FURTHER TO ANOTHER AGREEMENT FOR ACTUAL EXPLOITATION.

CANADIAN JAVELIN SAID THAT WITH ITS WHOLLY-OWNED SUBSIDIARIES AND MAJORITY-OWNED BISON IT HOLDS 600 00 ACRES OF MINERAL CONCESSIONS IN PANAMA.

BISON ALSO SAID IT NEGOTIATED AN AGREEMENT IN PRINCIPLE WITH A.I.S. RESOURCES LTD MONTREAL FOR PARTICIPATION BY A.I.S. IN FINANCING OF AN EXPLORATION AND DEVELOPMENT PROGRAM ON THE MINERAL CONCESSION. DETAILS WILL BE ANNOUNCED AFTER APPROVAL BY REGULATORY AUTHORITIES.

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Canadian Javelin Unit Given Mineral Rights By Panama Government

By a WALL STREET JOURNAL *Staff Reporter*

MONTREAL—Bison Petroleum & Minerals Ltd., 61%-owned by Canadian Javelin Ltd., said it acquired a 200,000-acre mineral concession from the Panamanian government.

Robert Major, Bison's president, said the concession is "known to contain gold, silver and other metals."

He said the exploration agreement with the government carries the right to proceed further to another agreement for actual exploitation of the concession.

Canadian Javelin said that with its wholly owned subsidiaries and majority-owned Bison, it thus holds 600,000 acres of mineral concessions in Panama.

Mr. Major said Bison has negotiated an agreement in principle with A.I.S. Resources Ltd., Montreal, for participation by A.I.S. in the financing of an exploration and development program on the mineral concession. He said details will be announced after approvals by regulatory authorities have been obtained.

Western Bancorp Affiliates Organize Bank in Hong Kong

LOS ANGELES—Three West Coast banks affiliated with Western Bancorporation have formed a new merchant bank in Hong Kong.

The bank, Western International Capital Ltd., is jointly owned by United California Bank, Los Angeles; First National Bank of Oregon, Portland; and Pacific National Bank of Washington in Seattle.

JULY 6, 1973 · Page 5
WALL STREET JO

Canadian Javelin Plans Panama Copper Output In About Two Years

By a WALL STREET JOURNAL *Staff Reporter*

MONTREAL—Canadian Javelin Ltd. plans to have its copper deposits in the Cerro Colorado region of Panama in production in about two years at a cost of "roughly $560 million," John C. Doyle, chairman of the executive committee, said in a telephone interview from Panama City.

Mr. Doyle said construction of production facilities will begin next month at the property, which Canadian Javelin has stated contains 2.2 billion tons of copper-molybdenum mineralization grading 0.8% copper. The major bottleneck between the start of construction and first production is installation of power facilities at the property. "There is an 18-month waiting period for the type of equipment we require," Mr. Doyle said.

Although Mr. Doyle said Canadian Javelin "already has signed preliminary financing agreements," he declined elaboration other than to say that these who are providing the financing "are, naturally, the purchasers of the production."

Mr. Doyle said the company intends to establish a mine and mill to process 176,000 tons of ore a day, a 200,000-ton-a-year copper smelter and a 100,000-ton-a-year electrolytic copper refinery. Previously, Canadian Javelin had proposed a mining operation and concentrator with an initial daily capacity of 30,000 tons of ore, followed by three successive expansions of 30,000-ton-a-day capacity at three-year intervals after the start of production. Mr. Doyle said the decision to proceed with a 176,000-ton-a-day mining operation was based on the savings to be achieved by using the larger production schedule.

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THE WALL STREET JOURNAL
Friday, May 3, 1974 19

Javelin Unit Receives Mineral Concession In Panama After a 10-Month Controversy

By a WALL STREET JOURNAL *Staff Reporter*

MONTREAL — The controversy over whether a Canadian Javelin Ltd. subsidiary has the right to explore a mineral concession in Veraguas Province, Panama, appears to be over.

Jorge Luis Quiros, director general of mining resources for Panama's Department of Industry and Commerce, said yesterday in a telephone interview from Panama City that the government has "signed and awarded" the much-disputed concession, totaling 168,285 acres, to Pavonia S.A., the Javelin subsidiary.

Just a Resolution

The dispute began last July, when Javelin announced at its Montreal headquarters that Bison Petroleums & Minerals Ltd. was "granted" a new mineral exploration concession in Veraguas that was "known to contain gold, silver and other metals."

The contents of the release were confirmed by William Wismer, Javelin president and later in the week by John C. Doyle, Javelin's founder and chairman of the executive committee. Doyle said the concession had been granted to Pavonia on June 21 and later assigned to Bison Petroleums. (Doyle is wanted in the U.S. to serve a three-year sentence handed down in 1963 for fraud and conspiracy and also faces fraud and breach-of-trust charges in Newfoundland, involving separate cases.)

However, a subsequent investigation disclosed on Oct. 25 that the concession hadn't been granted to Pavonia. Mr. Quiros at that time stated that Pavonia had only applied for the concession and that the June 21, 1973, document bearing his signature—which Javelin offered as evidence of the award—was merely a resolution certifying that Pavonia had the financial and technical means to carry out exploration operations on the property. Javelin maintained that the July release was issued only after it was personally advised by a Pavonia vice president that the company had the concession.

The American and Montreal Stock Exchanges halted trading in Javelin shares Oct. 25. Although trading resumed in the stock in Montreal Nov. 8, the Securities and Exchange Commission suspended all U.S. exchange and over-the-counter trading in Javelin shares. Bison Petroleums trading was also halted at Montreal Oct. 25 and that ban remains in effect.

On Oct. 29, Javelin said it had ascertained that the mineral concession hadn't been awarded, although it said it had "acted in good faith," in issuing the original release.

"Misunderstanding"

In a release issued yesterday regarding the final award of the concession, Javelin categorized the entire controversy as a "misunderstanding" and an "administrative error."

Javelin said now that Pavonia has the exploration concession it will seek to transfer it to Oltenia S.A., which is two-thirds owned by Bison Petroleums and one-third by Javelin. Mr. Quiros said he wasn't aware that the concession is to be transferred to Oltenia. "If they want to transfer it, they will have to file the necessary documents in order to get the government's approval," he said.

Meanwhile, Javelin said it will begin exploration on the concession immediately to confirm and extend the reserves of gold known to exist in the area.

The Veraguas concession is in addition to Javelin's Cerro Colorado holdings in Panama, on which exploratory drilling, according to Javelin, has outlined a substantial tonnage of copper mineralization.

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Canadian Javelin Admits Its Announcement Of Panama Mineral Rights Was 'Premature'

By a WALL STREET JOURNAL *Staff Reporter*

MONTREAL — Canadian Javelin Ltd. conceded yesterday that it was "premature" in announcing July 5 that its Bison Petroleum & Minerals Ltd. subsidiary had been granted a mineral-exploration concession by the Panamanian government.

William Wismer, Javelin president, said Bison acted "entirely in good faith" in the July 5 announcement, but said in a statement yesterday that "it has been ascertained that the granting of the concession wasn't finally formalized."

Until yesterday, Javelin officials, including Mr. Wismer, had maintained the concession had been granted as originally announced. John C. Doyle, chairman of Javelin's executive committee and owner of 22% of Javelin's outstanding shares, said in a telephone interview Oct. 19 that the company had already spent considerable time and money on the concession. "If I didn't have title to it, I wouldn't spend one five-cent piece on it," he said.

Last week this newspaper published a story that contained an interview with Jorge Luis Quiros, director general of mining resources for the Panamanian Ministry of Industry and Commerce. Mr. Quiros disputed Javelin's position and said flatly the concession hadn't been awarded.

Trading Was Halted

Trading of Javelin shares on the American and Montreal stock exchanges and of Bison shares on the Canadian Stock Exchange has been halted since last Thursday pending release of a Javelin statement.

Javelin's position on the concession had been that the government granted it to Pavonia S.A., a subsidiary, and that the concession had been subsequently assigned, or sublet, to Bison.

Mr. Quiros said that a June 21 government resolution bearing his signature, which Javelin had previously offered as proof of the award, was merely a resolution certifying that Pavonia had the financial aid and technical means to carry out exploration operations on the property, which is in Veraguas province.

Mr. Wismer said yesterday in his statement that Bison believed that when the June 21 resolution was adopted and signed that it was a matter of "mere formality then to execute the concession contract."

Exceed Limitation

"This turned out to be premature," the statement said, "because notification has been received" from the Ministry of Industry and Commerce that so-called Class "C" exploration concessions already held by Pavonia and Oltenia S.A., another Javelin affiliate, "taken together exceed the statutory limitation as to the number of hectares which can be held by one concessionaire." A hectare equals 2.47 acres.

"Therefore, the actual concession contract concerning the property in Veraguas province has never been formally executed," the statement said.

Mr. Wismer said in the statement that Oltenia has notified the ministry it is dropping some of its older exploration holdings to bring the total Class "C" acreage within the statutory limits. And in a telephone interview yesterday from Panama City, Peter La Rush, a Pavonia vice president, said Pavonia has reapplied for the Veraguas concession, and in doing so is seeking fewer hectares than in its original application.

The Veraguas property, the July 5 press release said, is "known to contain gold, silver and other metals."

Javelin emphasized in its statement that its Cerro Colorado properties in Panama, which involve a different type of exploration concession, aren't affected. The Cerro Colorado holdings, the concession for which was obtained in October 1970, include a large copper-molybdenum deposit that Javelin is developing.

Canadian Javelin Doesn't Have Gold Rights in Panama, Nation Says; Firm Disputes That

By Eric Morgenthaler and Nick Thomas
Staff Reporters of The Wall Street Journal

When it comes to attracting controversy, companies or executives possess the magnet-like qualities of Canadian Javelin Ltd. and its flamboyant founder, John C. Doyle, who serves as chairman of the natural-resource company's executive committee.

Over the years, both Javelin and Mr. Doyle have been involved in numerous flaps with shareholders, regulatory agencies and governments. Last year, attention focused on Javelin's troubles with a linerboard mill in Newfoundland, which has since been taken over by the provincial government.

Among other things, there were charges by the new conservative government there that Javelin had mismanaged the project and that Mr. Doyle and Javelin benefited greatly from a close relationship with the previous liberal government. Through it all, Mr. Doyle has consistently denied any wrongdoing.

Whatever the case, since getting out of the linerboard business Mr. Doyle has devoted much of his time to Panama—where the company is developing a large copper-molybdenum deposit known as Cerro Colorado, the concession for which was obtained in October 1970.

And now, it appears that Javelin is once more embroiled in a dispute—this time with the Panamanian government over whether a Javelin subsidiary, Pavonia S.A., has an additional mineral exploration concession that the company maintains was granted earlier this year.

The announcement of the new Pavonia concession, which Javelin said was "known to contain gold, silver and other metals," was taken cautiously by the market—partly because of past reports by Javelin that exploratory drilling on the Cerro Colorado property had outlined a substantial tonnage of copper mineralization.

Bizarre Tale

The bizarre and often confusing tale includes government assertions and documents that indicate Pavonia apparently doesn't have a concession and was in fact in violation of Panama's mineral code in applying for it in the first place. Whatever the facts, the flap would seem to raise questions as to whether either Javelin has been candid in publicly disclosing all of what's been going on in recent weeks.

Mr. Doyle said last week that the company has already spent "considerable time and money" on the disputed property and has a crew on the scene checking out the geology in preparatory to drilling. "If I didn't have title to it I wouldn't spend one five-cent piece on it," he says. "I'm not in the habit of wasting money or making false reports."

It all began last July 5, when Javelin issued a press release from its Montreal headquarters on behalf of its subsidiary, Bison Petroleum & Minerals Ltd. The press release, the contents of which were confirmed to this newspaper by William Wismer, Javelin president, said Bison was "granted" a new exploration concession by the government through Pavonia on June 21, 1973.

The details were also confirmed by Mr. Doyle later that week in a telephone interview from Panama. He said Pavonia had been granted the concession on June 21 and had subsequently assigned, or sublet, it to Bison. Last week, Mr. Doyle reiterated this stance and said the release was issued only after the company's Panamanian attorneys and Peter La Rush, a Pavonia vice president, had "personally advised" him the company had the concession.

In part because the Panamanian government had announced in June it was drawing up a new mining code, this newspaper also tried to reach Fernando Manfredo, Panama's minister of industry and commerce, to verify the concession award. After several unsuccessful attempts, a person who identified himself as Fernando Manfredo, the government minister, was reached at the ministry offices on the weekend of July 7. This man, who seemed to be familiar with the matter, said that Pavonia had been granted the concession.

A Different Version

However, investigation into a broader story on Javelin's Panamanian operations has unearthed a different version. In an interview last week in his small, map-cluttered office in Panama City, Jorge Luis Quiros, director general of mining resources for Mr. Manfredo's ministry, said the concession hasn't been awarded.

Mr. Quiros said that Pavonia has only *applied* for the concession and that a June 21 document bearing his signature—which Javelin offers as evidence of the award—is merely a resolution certifying that Pavonia has the financial and technical means to carry out exploration operations on the property.

Efforts to reach Mr. Manfredo to clarify his position have been unsuccessful. However, Mr. Quiros quoted Mr. Manfredo as saying he never spoke with a reporter from this newspaper on the matter.

The government's position on whether it was aware of Javelin's July 5 press release is also muddy. At one point last week, Mr. Quiros told a reporter that Mr. Manfredo was "upset" about the announcement. Then, two days later, he backed off from that and said the government didn't know about the announcement. "If I said that, it was a misunderstanding," he asserted. Mr. Quiros added that if there's false information being circulated, "the government isn't obliged to deny it."

Mr. Quiros says that he doesn't have the authority to grant an award and that his role is largely one of certifying an applicant's eligibility. The June 21 resolution, he says, is only the first step in a three-step process that must ultimately receive the approval of Mr. Manfredo and the Panamanian president.

More Confusion

"I would say that's where our lawyers part company with Mr. Quiros," Mr. Doyle said last week. The June 21 document, he said, "was surely (the one) under which I was under the impression" the concession was granted. If there is an error involved, he added, it would be a "technical" one only. "Why would responsible lawyers down there make any other kind of representation?"

That isn't clear, but the confusion doesn't end with that point. Government records show that in an Aug. 5 resolution Mr. Quiros found Pavonia in violation of Panama's mineral code in seeking the concession because it would mean Javelin interests in Panama would hold more exploration acreage than permitted by law.

The law specifies that no one company may hold more than 100,000 hectares of so-called class "C" exploration rights. (A hectare equals 2.47 acres). Records show that under rights granted Jan. 26, 1970, Oliconia S.A., another acreage) is the only requirement they've missed. There could be others. We have to check again and make sure all requirements have been completed." Mr. Quiros says the ministry "should have noticed it (the acreage violation) earlier, but we didn't."

Nowhere along the line has Javelin felt it necessary to publicly announce these apparent snags, including the fact that it has been required by the government to drop a large chunk of its Panamanian exploration acreage. Mr. La Rush, the Pavonia vice president, says it wasn't announced because the properties being dropped are largely in the old concession and ones they "consider not worth keeping anyway." Says Mr. Doyle: "Is it of commercial significance to drop moose pasture?"

Heavy Stock Trading

Through all this, Javelin stock has been one of the most actively traded issues on the American exchange—with most of the turnover coming after the company disclosed July 18 that it planned to place the Cerro Colorado deposit into production in about two years. Some 700,000 shares were traded in July alone; more than 114,000 shares changed hands on July 25. In the July-September period, about 1.8 million shares were traded, and the stock hit its high for the year of $18 in September. It had been as low as $5.87½ earlier this year. It closed on the Amex yesterday at $15. Mr. Doyle currently owns about 1.4 million shares, 22% of Javelin's 6.4 million outstanding shares.

Mr. Quiros says a new law passed Aug. 22

amends the mining code to require any mining company making a release to clear it first with his office. Asked if that was prompted by Javelin's recent activities, Mr. Quiros laughs and says, "No, there are a lot of them like that."

Mr. Quiros says that he doesn't have the authority to grant an award and that his role is largely one of certifying an applicant's eligibility. The June 21 resolution, he says, is only the first step in a three-step process that must ultimately receive the approval of Mr. Manfredo and the Panamanian president.

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"I would say that's where our lawyers part company with Mr. Quiros," Mr. Doyle said last week. The June 21 document, he said, "was surely (the one) under which I was under the impression" the concession was granted. If there is an error involved, he added, it would be a "technical" one only. "Why would responsible lawyers down there make any other kind of representation?"

That isn't clear, but the confusion doesn't end with that point. Government records show that in an Aug. 5 resolution Mr. Quiros found Pavonia in violation of Panama's mineral code in seeking the concession because it would mean Javelin interests in Panama would hold more exploration acreage than permitted by law.

The law specifies that no one company may hold more than 100,000 hectares of so-called class "C" exploration rights. (A hectare equals 2.47 acres). Records show that under rights granted Jan. 26, 1970, Oltenia S.A., another Javelin affiliate, already has class "C" exploration rights on 97,452 hectares of land in Veraguas and Chiriqui provinces. The June 8, 1973, Pavonia application was for 80,761 hectares of land in Veraguas province—putting Javelin as corporate parent over the limit by 78,213 hectares.

Pavonia was therefore required to modify its request—and its holdings—to be in compliance. Documents show that Pavonia filed an amended request that was received by the government on Oct. 5. It provides for Oltenia's dropping 74,776.5 hectares from its concession and Pavonia's dropping 12,629.4 hectares from its June 8 application. (The Cerro Colorado holdings aren't affected, since they involve a different type of exploration classification.)

Mr. Quiros said the new Pavonia documents still have to be processed. If it's determined they put Pavonia in compliance, Mr. Quiros said he'll issue another resolution noting that.

But he adds, "This doesn't mean it (the

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TELEX 05 24316

Canadian Javelin Limited

EXECUTIVE OFFICES
1115 Sherbrooke St. West
Suite 2900
Montreal, Quebec

October 29th, 1973

PRESS RELEASE

FOR IMMEDIATE RELEASE

In reference to an announcement made on July 5th, 1973, by Bison Petroleum and Minerals Limited, a subsidiary of Canadian Javelin Limited, relating to a mineral concession in the Province of Veraguas requested from the Government of the Republic of Panama by Pavonia S.A. (a wholly-owned subsidiary of Canadian Javelin Limited), the Company wishes to emphasize the fact that the Cerro Colorado copper properties of Canadian Javelin in the Republic of Panama are not affected and to make the following clarification regarding the mineral concession in question.

Bison acted entirely in good faith but it has been ascertained that the granting of the concession was not finally formalized. A resolution was adopted by the Panamanian Ministry of Industry and Commerce and was signed authorizing the award of the concession and Bison believed, when the resolution was adopted and had been signed, that it was a matter of mere formality then to execute the concession contract.

This turned out to be premature because notification has been received from the Ministry of Industry and Commerce that it considers Pavonia S.A. and Oltenia S.A., both of which are Panamanian companies affiliated with Canadian Javelin Limited, as one entity rather than two. This being the case, the Class "C" exploration concessions of Pavonia and Oltenia taken together exceed the statutory limitation as to the number of hectares which can be held by one concessionaire. Therefore, the actual concession contract concerning the property in Veraguas Province has never been formally executed. Oltenia S.A. has notified the Ministry of Industry and Commerce that it is dropping 74,766.5 hectares that have been geologically examined and determined to be immaterial to its needs, thus bringing the total Class "C" concession holdings within the statutory limits. The Company has been advised that a resolution

...2

has been sent to the Ministry for the acceptance of Oltenia's reduction in territory covered by exploratory concessions and expects that the concession in Veraguas Province will be finalized.

Trading in the shares of both Bison and Canadian Javelin was temporarily halted on the applicable stock exchanges at the Companies' own requests pending the release and dissemination of this clarification.

CANADIAN JAVELIN LIMITED

W. M. Wismer
President

A-242

TEL. (514) 842 5831

TELEX 05-24316

Canadian Javelin Limited

EXECUTIVE OFFICES
1115 Sherbrooke St. West
Suite 2900
Montreal, Quebec

October 30, 1973

Dear Shareholders:

Your Company issued the enclosed Press Release in order to clarify an Article published in The Wall Street Journal on Thursday, October 25th, 1973.

Your attention is directed to the following points:

(1) The mineral concession in question is being acquired by Bison Petroleum & Minerals Limited, a subsidiary of Canadian Javelin Limited.

(2) The Cerro Colorado properties of Canadian Javelin in the Republic of Panama are not affected.

(3) Trading in the shares of both Bison and Canadian Javelin was temporarily halted on the applicable stock exchanges at the Companies' own requests pending the release and dissemination of this clarification.

Respectfully submitted,

W. M. Wismer
President

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TEL. (514) 842-5831 TELEX 05-24316

Canadian Javelin Limited

EXECUTIVE OFFICES
1115 Sherbrooke St. West
Suite 2703
Montreal 110, Quebec

May 10, 1974

Dear Shareholder:

We are pleased to inform you that settlement negotiations are in progress with the United States Securities and Exchange Commission looking towards an early conclusion of the litigation in the civil action, Federal District Court in the Southern District of New York, initiated by the Securities and Exchange Commission. We have every expectation that a settlement will be reached in the near future. In the event a settlement is not reached because of some presently unforseen circumstance, the company will be prepared to go to trial.

CANADIAN JAVELIN LIMITED

P. J. DeSantis
Secretary

EXECUTIVE OFFICES
1115 Sherbrooke St. West
Suite 2900
Montreal, Quebec

Dear Shareholder:

The following is the text of a self-explanatory Press Release, issued by your Company:

Canadian Javelin Limited announced that the Government of Panama has signed minerals exploration concession Contract No. 44 with Pavonia, S.A., a wholly-owned subsidiary of Canadian Javelin Limited, for an area in the Province of Veraguas with the purpose to explore for gold and base metals vein deposits.

The contract covers 68,131.6 hectares (168,285 acres) and contains known occurrences of gold and base metals. The old previously worked Remance mine is located within this concession and contains proven gold reserves. Known reserves are contained within the principal vein which reached 4 meters in width but averages 2 meters. The vein has been determined to exist on the surface for a length of at least 3 kilometers. Numerous other quartz filled veins exist within the immediate area. The above information about reserves and mineralization is from a U.N. report by Mr. S. Wlekinski.

Exploration will begin immediately to confirm and extend the present reserves of gold known to exist in this area under technical direction of Javelin's geological and engineering staff.

It was further stated by Canadian Javelin Limited that Pavonia, S.A. is taking the necessary measures to transfer the Veraguas Concession to Oltenia, S.A., which is two-thirds owned by Bison Petroleum & Minerals Limited and one-third owned by Canadiar Javelin Limited.

Because of an original misunderstanding related to the Veraguas mineral concession acquisition, the shares of Bison were subjected to a trading halt on the Montreal Stock Exchange. With the completion of the signing of the Veraguas exploration contract, the shares of Bison are expected to be readmitted for trading on the Montreal Stock Exchange. This administrative error also affected trading in Canadian Javelin Limited, the parent company, in the United States.

Bison Petroleum & Minerals Limited stated that the company continues to be active in oil and gas exploration, development and production. Bison has recently acquired a gas field in South Central Saskatchewan. This field contains substantial quantities of proven commercial gas. Further testing and exploration is being undertaken to determine the full potential of this gas field. The necessary feeder lines and auxiliary equipment have been installed and negotiations are underway for the sale of the gas.

The company further stated that Bison Petroleum & Minerals Limited is engaged in a program to enlarge and develop the company's Brabant Lake copper zinc deposits. Development emphasis is now being placed on this property due to the present high metal prices. Values of contained metals at present prices are in excess of $41.00 per ton.

CANADIAN JAVELIN LIMITED

P.J. DeSantis
Secretary

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,	:	
Plaintiff,	:	
-against-	:	73 Civ. 3801
CANADIAN JAVELIN, LTD., et al.,	:	
Defendants.	:	
SAMUEL H. SLOAN,	:	
Plaintiff,	:	
-against-	:	73 Civ. 4403
CANADIAN JAVELIN, LTD., et al.,	:	D.B.B.
Defendants.	:	AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ALAN PLOTKIN, being duly sworn, deposes and says that:

1. I am associated in the practice of law with the firm of Bressler, Meislin, Tauber & Lipsitz, attorneys for defendant, Pressman, Frohlich & Frost Incorporated (PF&F). I am fully familiar with the facts and circumstances surrounding these actions and I am submitting this affidavit in opposition to the motion by Plaintiff, Samuel H. Sloan (Sloan) for an order granting rehearing of the opinion of this Court dated May 30, 1974

2. Sloan's affidavit in support of his motion is an extraordinary mixture of incoherent rambling and contorted logic and is typical of the approach Sloan has taken in prosecuting these actions.

3. PF&F is one of the so-called brokerage defendants in these actions. Sloan's argument with respect to the brokerage defendants is fantastic. First, PF&F is told that in commencing these actions Sloan is doing PF&F a considerable favor. PF&F's amazement at this favor of being made a defendant in this action is presumably clarified by Sloan's explanation which follows. This explanation seems to be that, in fact, the principal defendants, namely Canadian Javelin, Ltd. and Messrs. Doyle and Wismer, may ultimately be liable to Sloan in a sum in excess of $130,000. Then PF&F is told that, in the event Sloan obtains this recovery, he will be able to satisfy claims which PF&F and other brokerage defendants have against him.

Thus, we are led to believe Sloan is pursuing Canadian Javelin, Ltd. and other principal defendants solely for the purpose of being able to satisfy PF&F's claims against him. Lest PF&F jump to the conclusion that Sloan would be willing to eliminate PF&F from this law suit since it is really Canadian Javelin and the others he is after, Sloan then advises that it is unlikely that he would receive a recovery from the principal defendants. Accordingly, it is necessary to pursue the brokerage

defendants in order that he will have sums sufficient to satisfy claims of these brokerage defendants against him.

4. The balance of Sloan's affidavit in support of his motion appears to add very little to the substance of his numerous amended complaints and fails to point to any error in the Opinion of this Court from which he seeks relief. Most importantly, perhaps, it fails to eliminate the feeling that one is Alice and has just stepped through the looking glass. Sloan's lengthy motion papers are further evidence that PF&F's earlier motion for an order enjoining Sloan from "further annoyance and harrasement of the defendants herein" was with merit and should have been granted. PF&F hereby renews its motion for such an order.

WHEREFORE, it is respectfully requested that the motion of Plaintiff, Samuel H. Sloan, be denied in all respects and that costs of this motion be awarded to defendant, Pressman, Frohlich & Frost Incorporated.

Alan Plotkin

ALAN PLOTKIN

Sworn to before me this
10th day of June, 1974.

Bernard J. Meisler

BERNARD J. MEISLER
Notary Public, State of New York
No. 31-7[illegible]
Qualified in New York County
Commission expires March 30, 1976

U.S. FILED COURT
JUN 11 1974
S. D. OF N.Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

73 CIV. 3801 DBB

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 4403
(DBB)

ORDER AND FINAL JUDGMENT

The Court having considered the prior proceedings in this action, and the matters submitted to it, and after due deliberation having rendered an opinion dated May 30, 1974, and having determined that a final judgment should be entered; it is hereby

ORDERED, ADJUDGED AND DECREED:

(1) The amended complaint, filed on December 29, 1973, be and the same hereby is dismissed with costs and with prejudice as to all defendants except Canadian Javelin Ltd., John C. Doyle and William M. Wismer.

(2) The amended complaint, filed on December 29, 1973, be and the same hereby is dismissed without prejudice as to Canadian Javelin Ltd., John C. Doyle and William M. Wismer.

(3) The motion by defendant Bache & Co. Incorporated for a final judgment on its counterclaim pursuant to Rule 54(b) of the Federal Rules of Civil Procedure be and the same hereby is denied.

(4) The default judgment (# 74044) of Bache & Co. Incorporated is hereby set aside and the counterclaim of Bache & Co. Incorporated is hereby dismissed without prejudice, there being no independent grounds for jurisdiction.

Dated: New York, New York
June 7, 1974

Dudley B. Bonsal
U.S.D.J.

Judgment entered
June 11th, 1974

Raymond F. Burghardt
Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 3801 - DBB

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403 - DBB

AFFIDAVIT IN OPPOSITION

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

NEIL D. BARON, being duly sworn, deposes and says:

I am a member of the Bar of this Court and of the firm of Booth & Baron, attorneys for defendants Standard & Poor's Corporation and McGraw-Hill, Inc. ("Defendants") and make this affidavit on behalf of Defendants in opposition to the plaintiff's motion pursuant to Rules 59 and 15(a) of the Federal Rules of Civil Procedure.

It is respectfully suggested that Rule 59 is not applicable to the instant case. That Rule applies to motions for a new trial. In the instant case there has never been a trial.

Mr. Sloan, in his affidavit in support of his motion, sets forth various reasons as to why he could not comply with this Court's order to file an amended complaint in the period designated. He does indicate on page 6, paragraph 12, that he did, in fact, know of the deadline imposed by the Court for filing. Defendants are mindful of the fact that plaintiff is representing himself and does not have the benefit of an attorney's representation. It is for this reason that Defendants have never objected throughout the course of this action to the unorthodox manner in which plaintiff conducted his case. Instead, Defendants relied totally on the substantive legal merits of their defense. The Court, in its opinion, indicated that the final amended complaint would have been dismissed with respect to Defendants even if it were filed in a timely manner. Accordingly, the Court has found adequate substantive grounds on which to dismiss the complaint. Inasmuch as plaintiff makes no new allegations in his supporting affidavit, there would seem to be no reason for the Court to grant the relief sought by plaintiff's motion.

Specifically with respect to defendant McGraw-Hill, Inc.,

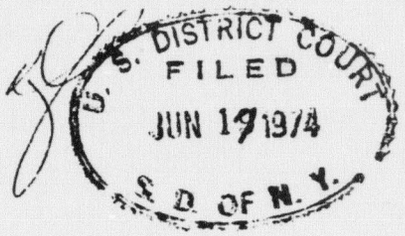
it should be noted that said defendant was not named until the filing of the last amended complaint. Therefore, service was timely as to McGraw-Hill, Inc. and the opinion of this Court dismissing the complaint as against it was not based on an untimely filing, but instead was clearly based on the substantive merits of its motion to dismiss.

Accordingly, it is respectfully submitted that plaintiff's motion be denied in all respects.

Neil D. Baron

Sworn to before me, this
11th day of June, 1974.

MARIANNE J. FIRELLI
Notary Public, State of New York
No. 30-6302410 Qual. in N.Y. Co.
Commission Expires March 30, 197[illegible]



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 3801

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403

AFFIDAVIT IN OPPOSITION

D.B.B.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Harry J. Friedberg being duly sworn deposes and says that I am a member of the firm of Olitt and Friedberg, attorneys for defendant Muller & Co. (Muller), admitted to practice in the State of New York, and the Bar of this Court.

Plaintiff's motion in essence seeks a rehearing of the Court's dismissal of his complaint with prejudice, against inter alia defendant Muller.

Defendant Muller initially moved before this Court to dismiss plaintiff's complaint, on the grounds that service was improper. The Court decided from the Bench, on November 19, 1973, that in fact plaintiff's complaint was improperly served, and that his action was dismissed, with leave to effectuate proper service. At that time the Court heard a companion motion by defendant Chartered New England Corp. (Chartered) to dismiss plaintiff's then extant complaint, on the grounds that same failed to state a cause of action. The Court then gave plaintiff twenty (20) days within which to serve an amended complaint, in the interim plaintiff served upon defendant Muller the defective complaint that defendant Chartered moved against. Plaintiff failed to serve his next required complaint within the requisite time frame. Thereafter a series of motions was made by various defendants which brought oral argument before this Court, wherein defendant Muller again urged dismissal of plaintiff's complaint on the grounds that plaintiff's complaint was never timely served or properly served, and that the then extant complaint failed to state a cause of action. The Court then rendered a decision on this issue and indeed did correctly dismiss plaintiff's cause against all of the brokers and others that he sued.

On behalf of defendant Muller it appears as though plaintiff's complaint has long been dismissed, and your deponent is confused as to the standing of defendant Muller at this particular juncture. However in order to finally lay to rest the claims of plaintiff against Muller we urge that this Court deny plaintiff's motion for reargument.

Plaintiff further buttresses his improper claim against the brokers in paragraph Third of his affidavit in support of this motion.

Plaintiff urges there that the brokers have made claim against him, and that he prefers to see the brokers get paid, and eludes to the fact that payment to the brokers will be made by virtue of the vindication of plaintiff's rights against Canadian Javelin Ltd. and individual defendants Doyle and Wismer.

In order not to burden this Court with unnecessary matter it is readily apparent that plaintiff's motion is without merit and should be denied.

WHEREFORE, your deponent respectfully prays that such motion be denied together with costs.

HARRY J. FRIEDBERG

Sworn to Before Me
This 12th Day of June, 1974.

JERROLD T. DOROS
NOTARY PUBLIC
Qualified in the County of
Commission Expires March 30, 1975

JERROLD T. DOROS
Notary Public, State of New York
No. 31-4572055
Qualified in New York County
Commission Expires March 30, 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

AFFIRMATION

73 Civil 3801
DBB

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403
DBB

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

GEORGE C. BARON, an attorney admitted to practice in this Court and an attorney of the State of New York, under penalty of perjury, states:

1. I am a member of the firm of Booth & Baron, attorneys for defendants Standard & Poor's Corporation and McGraw-Hill, Inc. (the "Defendants"), and make this affirmation on behalf of said

defendants and in opposition to the plaintiff's motion for reargument, particularly in response to plaintiff's memorandum (the "Memorandum") in support of his motion for reargument and for leave to file an amended complaint.

2. Plaintiff denies in paragraph 1 of the Memorandum that there is nothing in any of the complaints indicating that he sought to capitalize on a fraud. However, in plaintiff's memorandum in opposition to various motions to dismiss, plaintiff states on page 13:

> "The public based its reliance soley on the earnings reports disseminated by Standard & Poor's Corporation. Plaintiff did not rely on these reports. He knew that they were wrong. This explains the fact that he was a short seller of Javelin shares."

These facts are clear and specific, namely, that plaintiff, knowing the public was relying on statements which plaintiff knew to be fraudulent, sold his shares to the unknowing public. By any standard, this activity constitutes an attempt to capitalize on an avowed fraud. On page 21 of his Memorandum, plaintiff suggests that he sent certain correspondence to various parties in order to disclose the inaccuracy of information disseminated in connection with Canadian Javelin. Plaintiff omits, however, to point out that he was already in a substantial short position and that any disclosure of negative material would have benefited him. Such correspondence was merely a step in plaintiff's own fraud on the public.

3. In paragraph 4 of the Memorandum, plaintiff states that the Court apparently overlooked his allegation of common law

fraud. Plaintiff seems to be unaware that where all federal causes of action are dismissed prior to trial, it is appropriate to also dismiss state common law causes of action.

4. In paragraph 13 of the Memorandum, plaintiff states that the Defendants motions were not filed with the required ten day notice. In the same paragraph, however, he states that Defendants motions were filed on January 4th and were made returnable on January 14th. Simple arithmetic reveals compliance with the required ten day notice.

5. In paragraph 14 of the Memorandum, plaintiff states that there is little evidence of costly legal service being performed in connection with this case. The numerous affidavits and legal memorandum prepared by Defendant's attorneys evidences the significant expense attendant upon this case.

6. On page 15 of the Memorandum, plaintiff indicated that he did not obtain legal counsel due to the cost thereof. However, on October 23rd, plaintiff stated in open court that this reasons for not obtaining legal counsel were not lack of funds, but that he could not find an attorney capable of handling this case.

7. On page 17 of his Memorandum, plaintiff states that nobody other than McGraw-Hill, Inc. appears to have moved to dismiss the final amended complaint. However, by supplemental affidavit, dated January 9, 1974, defendant Standard & Poor's Corporation made its prior motion to dismiss the complaint applicable to the final amended complaint.

8. Plaintiff seems to be relying on his assertion that this Court dismissed the complaint due to the untimely filing

thereof. (With respect to McGraw-Hill, however, he cannot make this allegation inasmuch as the final complaint was not untimely as to that defendant.) However, the Court, in its opinion, clearly indicated that the complaint would have been dismissed had it been filed in a timely manner. Accordingly, the Court's decision was based on the substantive merits of this case. Plaintiff has made no new allegations as to either of the defendants Standard & Poor's Corporation and McGraw-Hill, Inc. in his motion or in his supporting brief. He has disavowed reliance and not alleged standing to sue, or facts amounting to fraud. Nor has he changed or rebutted his own admissions that he sought to capitalize on an alleged fraud to the detriment of an unknowing public.

Accordingly, it is respectfully submitted that plaintiff's motion be denied in all respects.

Dated: New York, New York
June 13, 1974

George C. Baron
GEORGE C. BARON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civil 4403

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGEMENT AS TO DEFENDANT EDWARDS & HANLY

State of New York)
: ss.:
County of New York)

Samuel H. Sloan, being duly sworn, deposes and says:

1. That he is the Plaintiff in the above entitled action.

2. That he makes this affidavit in support of a motion for summary judgement as to defendant Edwards & Hanly ("Edwards").

3. That the genesis of this lawsuit is as follows: Edwards is one of the largest privately owned stock brokerage firms doing business with the public. A large number of customers of Edwards held Javelin shares in margin accounts at Edwards. As a result Edwards was anxious to loan out Javelin shares held in its "box." (The "box" is the part of the cage where a stock brokerage firm keeps securities held for customers in margin accounts. Non-marginable securities are held in "seg" or segregation. Securities held in the box can be hypothecated for stock loan purposes in accordance with the rules of the New York Stock Exchange and Regulation T. Securities held in "seg" cannot be hypothecated.)

4. Many stock loan clerks are known to frequent a restaurant called the "45 Below" at 45 Nassau St., New York, N.Y. At this restaurant (also a bar) these stock loan clerks negotiate major financial transactions involving the lending and borrowing of securities. Although the Plaintiff is not now and never has been a stock loan clerk, it appears to him that this bar is the focal point for the stock loan business. In any event certain over-the-counter traders frequent this bar also. Thus, it came that Sloan learned through the over-the-counter grapevine that Edwards was anxious to lend its Canadian Javelin shares.

5. Sloan was a professional securities trader specializing as a market maker in over-the-counter securities. He was making markets in as many as 150 securities, in most cases from the long side. He did not do any business with the public. He did not offer investment advice or carry customer accounts. He was relatively inexperienced in listed securities and had no familiarity with Canadian Javelin Ltd. before the Edwards situation came to his attention.

6. Nevertheless, Sloan undertook a study of Javelin and familiarized himself as much as possible with all relevant economic factors with respect to this company. As a result, he decided to go short Javelin.

7. On January 3, 1973 Edwards set up a position of 8300 shares of Javelin in its stock loan account with Sloan. This loan was marked at 6 which was the prevailing market price of Javelin at that time. This loan enabled Sloan to be short the

8300 shares without having to worry about making delivery. Sloan sold short another 1200 shares of Javelin over-the-counter to Petroland Securities Inc. to bring his entire short position to 9500 shares. (Sloan also had as a long position an odd lot of 26 shares making his net short position 9474 shares. Because odd lot transactions have little monetary significance they will be hereinafter disregarded.) As a result, Edwards owned Sloan $49,800 and Sloan sued Edwards 8300 Javelin shares.

9. It is customary in Wall Street for parties to a stock loan to send out a mark to market every time a security which is the subject of a stock loan moves two points. Stock loans are normally made in round amounts. Fractions are eliminated.

10. On Tuesday, April 24, 1973 Edwards sent Sloan a mark to market by messenger in the amount of $16,600. Javelin at that time was selling for 8. Sloan sent Edwards' messenger back emptyhanded because the messenger had arrived at Sloan's office after the customary time of day for a mark to market.

11. Edwards had their office almost directly accross the street from Sloan. Edwards was a 2 Broadway while Sloan was at 11 Broadway, although Edwards was just in the process of moving it operations section to One Whitehall Street a few blocks away.

12. Within a few minutes after he sent the messenger back, Sloan received an irate telephone call from a man who identified himself as Bob Della, the cashier at Edwards. Della demanded that Sloan accept the mark to market even though it was too late. Sloan refused to accept the mark. Shortly thereafter

Sloan received a call from Arthur Foote who identified himself as/managing partner of Edwards at the main office of Edwards in Hempstead, N.Y. Sloan again refused to accept the mark that day.

13. At that point Sloan recognized his obligation to pay Edwards the $16,600. However, Sloan was not favorably disposed towards losing such a large sum of money. In addition, most of Sloan's capital was tied up in securities positions on the long side and in failes to deliver. Sloan adivised Foote and Della of this fact though a series of telephone calls. As a result of these calls Foote and Della agreed not to mark Sloan for the full amount immediately based upon Sloan's representation that he would make good the stock loan.

14. At this point, Sloan, being unwilling to lose $16,600, devised a plan to pay Edwards and at the same time, minimize the loss to himself. At this time Javelin was trading in a range from 7 to 8. It would rise to 8 and trade in heavy volume. Then it would fall back to 7. Sloan decided that if he could sell enough shares at 8 he could buy back his entire short position at 7 and generate enough income to pay Edwards without loss to himself.

15. The history of Sloan is as follows. Sloan started his business in May of 1970 as a partnership. Most of the initial capital of the partnership was provided by his partner, Harry G, Theodos. Sloan himself had a net worth of approximately $1700. The capital of the partnership satisfied/minimum net capital requirements of the S.E.C. By January, 1971 Sloan had

earned enough profits from his activities as a market maker to buy out his partner which he did on January 11, 1971 by payment of $4150 plus various securities, including securities Theodos had contributed as capital. Sloan then became a sole proprietorship. By the end of 1972 Sloan had a net worth of approximately $68,000. Sloan's success in going from a net worth of approximately $1700 in May, 1970 to a net worth of more than $68,000 in December of 1972 occurred as a result of his market judgement and trading ability. In order to do this Sloan had to be correct on the market more than 90% of the time.

16. In this case Sloan's judgement was correct, as it had usually been in the past. He started by selling Javelin shares at around $8 primarily though defendant Chartered New England Corp. ("Chartered") who cleared through defendant F.S. Moseley, Estabrook Inc. ("Estabrook"). (Originally Chartered cleared through Estabrook & Co., Inc. which merged with F.S. Moseley & Co. during the middle of 1973 to form F.S. Moseley, Estabrook, Inc.) Most of the shares sold through Chartered were purchased by the specialist Dyer, Maguire, Dritz & Co. and by another broker, J.R. Timmins & Co., which merged in 1973 with a Canadian broker, Burn Bros. & Denton, to form Burns Bros. & Timmins, Inc.

17. Shortly thereafter the price of Javelin fell to 7. Sloan requested Foote to buy-in the 8300 Javelin shares at a price of 7. Sloan also went though other brokers, such as defendant Wood, Walker & Co. and Coenen & Co. to place buy orders on

the specialist's book at 6 7/8 and various lower prices.

18. If the plan would have worked, the Plaintiff would have been out of Javelin, and this lawsuit would probably have never occurred, except that the Edwards floor broker was negligent in that he did not purchase the Javelin shares quickly enough. The floor broker failed to exercise proper diligence in the execution of Sloan's order to buy-in 8300 Javelin at 7.

19. Foote gave the Edwards floor broker a "not held" order. That meant that the floor broker could use his discretion in purchasing the shares and that he would not be held responsible if the price of Javelin went through the limit and traded at 6 7/8. If the order had not been marked "not held," Sloan would have been entitled to an execution on his entire 8300 shares if even 100 shares had traded at 6 7/8. Foote explained to Sloan that he marked the order "not held" because Sloan's order was so large that the mere presence of it on the specialist's book might cause the price of Javelin to stay above 7. Foote did not disclose to Sloan that marking the order "not held" had another effect. A "not held" order would be held by the Edwards floor broker rather than by the specialist. Thus, Edwards would not have to pay "floor brokerage" to the specialist but would pay it to its own floor broker. "Floor brokerage" is a commission amounting to about $3-4 per hundred shares which floor brokers pay to each other for executing orders. By marking the order "not held" Edwards saved several hundred dollars in floor brokerage. Unfortunately, the saving by

Edwards of several hundred dollars led to a loss by Sloan of several thousand dollars.

20. The Edwards floor broker did not devote his full attention to the handling of Sloan's order. As a result, several thousand Javelin shares traded at 7 and 6 7/8 which Sloan did not buy. Javelin even traded as low as 6 3/4 without Sloan's order being filled. Eventually, however, Edwards did buy 8300 Javelin shares for Sloan at 7, leaving 1700 shares. Sloan paid Edwards $8300. It was no long necessary for Sloan to pay the full $16,600 because the price of Javelin had fallen. Edwards marked the remaining 1700 shares to 8 and Sloan paid Edwards an additional $1600.

21. On June 25 Javelin opened on 4200 shares at 7. Included in that transaction was a purchase by Edwards of 1700 Javelin for Sloan. A week later Edwards paid a check to Sloan in the amount of $1600. That cleared up Sloan's stock loan position with respect to Edwards. Actually Edwards still owes Sloan $25 due to a foul up between the stock loan department at Edwards and the buy-in department at Edwards. However, Sloan never bothered to ask Edwards for the money. This foul up accounts for the apparent discrepancy in the numbers.)

22. Nevertheless, Sloan was damaged by Edwards' delay. Sloan had intended to buy back all the Javelin shares he was short at about 7. He was waiting for Edwards to complete its purchase of 8300 Javelin at 7 so that he couldenter additional orders through other brokers to purchase at similar prices. Sloan never had the opportunity to do this because shortly

after Edwards completed the purchase of the 8300 shares Javelin commenced a rapid rise in price.

23. During the course of these events Sloan sold other securities to Edwards. In particular, he sold and delivered Zero Optics Inc. and Carousel Fashions.

24. In July, 1973 Sloan called his salesman at Edwards and asked him to sell a total of 4000 shares of Javelin. Sloan had established an account at the Hempstead, N.Y. branch of Edwards (which is also the main office) and had purchased Javelin shares through this account. His salesman was Bill Long. In July, 1973 Bill Long was no longer employed by Edwards and his account had been taken over by another salesman. Deponent is unable to recall with certainty the name of this salesman, but he believes the name was Fitzpatrick.

25. Sloan did not attempt to deliver all or any part of the 4000 Javelin shares prior to August 15, 1973. He did receive a call sometime around late July or early August, 1973 from Fitzpatrick who asked when the shares would be delivered. Sloan told Fitzpatrick that he could not say when he would deliver the shares.

26. To explain what happened next one must understand the custom and practice of the securities industry. Every day stock brokerage firms in Wall Street handle several hundred million dollars worth of securities receipts and deliveries. Few people, even in Wall Street, have ever stopped to consider how it is possible for such massive sums of money to change hands every day. Most people assume that it is done through

lines of credit arranged through banks. This is not true. Although the largest brokerage firms do have lines of credit with banks, the fact is that generally speaking the credit of most brokers is not worth a dime these days. In reality, brokers have so little trust of each other that most large transactions are settled through certified check delivered by messenger. To illustrate, deponent will take a medium sized transaction as an example. Broker A sells 10,000 Kaiser Steel Corp. at 20 to Broker B. B resells these same shares that day to C. C sells to D, who in turn sells them to E. On the morning of the settlement date or as soon thereafter as he gets the stock, A gives the 10,000 Kaiser Steel Corp to his messenger, who delivers them to the cashier's department at B. Attached to the securities are an original and duplicate delivery bill stating the number of shares, the price, the total money, the trade date, the settlement date, the name of the contr-broker, and the certificate numbers. The receive clerk at the window of broker B stamps the original of the delivery bill "RECEIVED SUBJECT TO COUNT AND EXAMINATION BY BROKER B." He gives the stamped original of the delivery bill to the messenger from broker A and keeps the securities and the duplicate delivery bill. At this point the receive department of broker B does not want to carry the stock overnight. They have a rack of delivery bills ready on all their open fails to deliver. They remove the delivery bill of A from the stock and attach their own. Then they write the certificate numbers on their delivery bill and send the securities by messenger to broker

C. C goes through the same process and redelivers to D. At this point the messenger from C arrives at the cage of C at 11:23 AM. D is unhappy because the deadline for deliveries is 11:30 and he will never get a messenger over to broker E by that time. Also, D may have less then $200,000 in the bank. In all likelihood D will call the receive department of E and ask them to take a late delivery. In all probability E will refuse to do so unless he has some place he can send the stock after normal delivery hours and get paid. The largest brokerage firms, such as Merrill, Lynch, Bache & Co., or Loeb, Rhodes & Co. will never take in a delivery of this size even if it were only one minute late, unless they have a buy-in outstanding. Thus, D will probably have to carry the stock overnight and try to raise money elsewhere. He may even be in the embarassing situation of having to hope that not everybody tries to certify his check that afternoon.

27. All checks are paid at approximately the same time of day, which is about 2:00 P.M. At that time A sends a messenger to B, B sends a messenger to C and C sends a messenger to D. The respective messengers present their stamped delivery bills and pick up the checks, provided the delivery is good. If the delivery is not good, the broker writes "D.K." (meaning DON'T KNOW) on the duplicate delivery bill or attaches a D.K. form to the stock. In any case the messenger either gets his check or his stock back the same day. If the messenger gets paid he takes the check to the "brokers certification department"

of the bank of the other broker and leaves the check on the certification window. All major Wall Street banks have a special department which handles these checks. The certification department will certify the check immediately if the broker has money. Otherwise they will usually hold the check and wait to see if money comes in. Sometimes they will call the broker and tell him to hurry up and get some money down there. In this example, C is hopefully able to certify the check of D at D's bank. C then deposits the certified check of D in his own bank. This gives C's bank enough money to certify the check C issued to B. B in turn has enough money so that his bank can certify the check paid to A. Thus everybody gets paid. This is the daily routine of Wall Street. In a typical situation a firly prosperous broker might carry $500,000 in his bank and have $10,000,000 in his daily receives and a like amount in daily delivers. At the end of the day his bank will take in $10,000,000 in certified checks and use these funds to certify the $10,000,000 in checks paid out. A major broker will almost never carry enough money in the bank to be able to pay out against his receives without making any deliveries. There is nothing unusual about this. In fact, Salomon Bros. likes to advertise the fact that they turn over their capital 75 times per day. This means a lot of certified checks. Occasionally, it happens that even the largest stock brokerage firms cannot get their own checks certified. The Stock Clearing Corporation will impose penalties on any member broker which habitually cannot certify its own checks.

28. On August 15, 1973 Sloan decided to make a late delivery of 1000 shares of Javelin to Edwards. Accordingly, he called the offices of Bob Della to see if Edwards would take a late delivery. He knew Della as a result of numerous telephone conversations with him during the months of April and May, 1973. A clerk who answered the telephone in Della's office agreed to take the late delivery. On this particluar occasion Sloan decided to walk the stock over to the receive window at Edwards himself. Edwards accepted the stock and stamped Sloan's delivery bill "RECEIVED SUBJECT TO COUNT AUG 15 P.M. 1:39 EDWARDS & HANLY."

29. The delivery bill called for payment of $12852.13. A copy of said delivery bill is attached hereto and marked Exhibit A. The clerk at the receive window took the shares and told Sloan it would take about an hour to prepare the check. While waiting for the check Sloan returned to his office and there he received a telephone call from Arthur Foote, a managing partner in Edwards & Hanly. Foote told Sloan that he, Foote, had instructed his cashiers department not to pay Sloan the money and not to return the shares to Sloan. Sloan demanded that Edwards return the shares to him. This demand was refused.

30. Foote referred Sloan to defendant Aronson. Sloan demanded that Edwards return the shares to him. Aronson refused to return the shares.

31. This illegal act by Edwards caused a severe financial crisis to Sloan. He sought aid from the NASD, the S.E.C., the New York Stock Exchange, the AMEX, the New York City Police, the District Attorney, and the U.S. Attorney. All of these

agencies referred Sloan to the courts. Subsequently, Sloan filed a formal complaint with the NASD in order to obtain recovery of the shares. Edwards responded by commencing an action in the New York State Supreme Court and obtained an order of attachment signed by Judge Vincent A. Lupiano. Edwards then turned over to the Sheriff the shares it had illegally converted from Sloan in order to satisfy the order of attachment. At the time it turned over the shares Javelin was selling for 18. Sloan called the attorneys for Edwards and asked them to at least sell the shares in order to obtain the benefit of the high price of Javelin. However, the shares were never sold.

32. As a result of this problem with Edwards, Sloan consulted his attorney, Robert L. Taylor, Esq. Taylor had been successful in clearing up problems with brokers in the past. On September 6, 1973 Taylor filed a Complaint with the National Association of Securities Dealers, a copy of which is attached hereto and marked Exhibit B. Edwards has never filed an answer to this complaint.

33. Taylor also wrote letters to Edwards, Merrill, Lynch, and the NASD. Copies of these letters are attached hereto and marked Exhibit C.

34. Edwards wrote Taylor on August 17, 1973, the day after Sloan's last day in active business. A copy of this letter is attached hereto and marked Exhibit D.

35. In no way were the activities of Sloan in this affair illegal. The seizure of the 1000 shares of Javelin by Edwards was illegal.

36. The 1000 shares of Javelin delivered by Sloan to Edwards consisted of one certificate bearing the certificate number JW7359 registered in the name of Merrill Lynch. However, the 1000 shares of Javelin delivered by Edwards to the sheriff consisted of several certificates registered in the name of Edwards. A copy of the letter from Edwards to the sheriff is attached hereto and marked Exhibit E.

37. A copy of the complaint, the answer and counterclaim, the order of attachment, and two orders by Justice Hangan in the State Court action are attached hereto and marked Exhibits F, G, H, I, and J.

38. Sloan's moving papers to vacate the order of attachment are attached hereto and marked Exhibit K.

39. Exhibit L consists of audit confirmations sent by Edwards to Sloan as of January 26, 1973 and April 27, 1973. The January 26, 1973 confirmation represents the original loan wherein Sloan loaned Edwards $49,800 free of interest and Edwards loaned Sloan 4300 shares of Javelin. Both parties benefited from this transaction. Edwards was able to earn interest on Sloan's money and Sloan was able to speculate on the price of Javelin shares. The April 27, 1973 confirmation appears to represent an extra $6000 Sloan had given to Edwards as a result of the mark to market by Edwards.

40. Exhibit M shows a purchase of 2000 Javelin shares by Sloan from Edwards on settlement date May 17, 1973. Sloan paid Edwards a check for $538.39 on that date which was a pair-

off check for the difference between the value of the loan and the price Sloan paid for the 2000 shares he had bought through Edwards. Exhibit N shows other buy-ins by Edwards and cancelled checks paid by Sloan to Edwards pursuant to their dealings in Javeli

41. Sloan's sales of Javelin were not illegal. The sales did not violate S.E.C. Rule 10a-1. All sales made by Sloan were on upticks. Sloan knows this to be true because all sell orders were entered on limits at prices higher than that at which Javelin was then treading. Therefore Sloan did not violate paragraph (a) of that rule. Paragraphs (b) and (c) only apply to members of a national securities exchange. Sloan is not now and never has been a member of any national securities exchange. Paragraph (d) provides exceptions to rule 10a-1 and does not apply here. Rule 10a-2 also applies exclusively to members of a national securities exchange.

42. However, even if Sloan had violated the uptick rule it would not justify the act of larceny by Edwards.

43. Through this motion for summary judgement Sloan is asking the Court to decide that Edwards owes Sloan $18,000 which represents the value of the 1000 shares of Javelin at the time Edwards turned these shares over to the sheriff. If this motion is granted the Court should order Edwards to pay Sloan $18,000. Edwards would then be free to take back the 1000 shares of Javelin from the sheriff. Edwards has brought to the attention of Sloan the fact that Javelin is now selling around $9 a share on the Montreal Stock Exchange, although it is suspended from trading in the U.S. by the Securities &

Exchange Commission and on the Vancouver Stock Exchange by the British Columbia Securities Commission.

45. Edwards has proposed to sell the 1000 shares of Javelin in Montreal. Sloan believes that to do so might be a violation of federal securities law since Javelin is presently suspended by the S.E.C. This is a murky area of the law. It would be helpful if the Court would determine the legality of such a sale. In any event, Sloan does not wish to receive or deliver, buy or sell any Javelin while it is suspended by the S.E.C. and while this litigation is pending. However, if Edwards decides to sell the shares, Sloan is not going to try to stop them.

46. Sloan also desires a determination by this Court that Edwards acted illegally in seizing the 1000 shares of Javelin delivered by Sloan and that Edwards is liable for any damages suffered by Sloan as a result.

46. Edwards is also liable for defamation of character by its repeated statements that Sloan acted illegally when no basis exists for such a claim.

47. There are other issues which the Court may or may not wish to determine at this time. They are as follows: (1) Does Edwards owe Sloan the $8300 or the $538.39 Sloan paid Edwards?; (2) Does Sloan owe Edwards $6611.42 which Edwards claims as damages resulting from the buy-in?; (3) Is Edwards liable to Sloan under Rule 10b(5)-1 and other Rules promulgated under the Securities Exchange Act?

. As a result of a conversation with defendant Stephen [illegible] of the American Stock Exchange, Sloan could not that shares used [illegible] were held in the box to make delivery against the sales of 4000 Javelin made for the account of Sloan.

9. If [illegible] true then Edwards in effect loaned the 4000 shares to Sloan.

0. This act [illegible] appear to constitute a violation of federa securities laws involving the unlawful hypothecation of customers securities.

51. With regard to part 2 of paragraph 47 above, Sloan claims he is not liable for the $6611.42 because the shares were unregistered and because he was never notified of the impending buy-in. Section 59 of the Uniform Practice Code of the NASD requires a 24 hour notice of intent to buy-in. Edwards claims that this does not apply because Sloan is not a member of the NASD. Sloan agrees that he is not a member of the NASD but claims that the Uniform Practice Code defines the custom and practice of the securities industry. In any event Edwards is barred from any recovery from Sloan on the ground that Edwards violated numerous federal securities laws.

WHEREFORE, Plaintiff prays that this Court grant his motion for summary judgement.

Samuel H. Sloan

SAMUEL H. SLOAN

Sworn to before me this
19 day of March, 1974.

[illegible]

25

PHONE: 732-4960

SAMUEL H. SLOAN & CO.
120 LIBERTY ST.
NEW YORK, N. Y. 10006

JU 7557

SEE REVERSE SIDE FOR AGREEMENTS AND EXPLANATION

YOU BOUGHT	YOU SOLD	DESCRIPTION	PRICE	AMOUNTS
1000		CANADIAN JAMES	1.13	
			1.39	
		1973		
			HLY	

ACCOUNT NO.	SECURITY NO.	REP. NO.	S	BROKER NO.	AS OF DATE	TRADE DATE	SETTLEMENT DATE	
							8-1-73	AMOUNT DUE

EDWARDS & HANLY
[illegible] Liberty St 11th Floor
[illegible], N.Y.

P & S COPY

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National Association of Securities Dealers, Inc.

COMPLAINT

Complaint No. _____
Filed with D. B. C. C. No. _____
_____ (Date Received)
(Not to be filled in by Complainant.)

To: District Business Conduct Committee of

District No. 12

77 Water St., New York, N.Y. 10005
(Address)

September 6, 1973
(Date)

Name and address of Complainant(s) Samuel H. Sloan d/b/a Samuel H. Sloan & Co.

%Robert W. Taylor, Esq. - 160 Broadway, New York, N.Y. 10033

Name and address of Respondent(s) Edwards & Hanly

One Whitehall Street, New York, N.Y. 10004

Article and Section of Rules of Fair Practice allegedly violated.* Article III - Section 1 and Section 59

Date of Violation (approximate, if not definite) August 16, 1973

Set forth in reasonable detail specific facts relating to the acts, practices and omissions which are alleged to constitute a violation of the Rules of Fair Practice cited above.**

SEE ATTACHED

The above statements are true to the best of my (our) knowledge and belief.

SAMUEL H. SLOAN - ROBERT W. TAYLOR

Robert W. Taylor
(Signature of Complainant)

By Attorney-in-fact
(Title)

* If more than one Article and Section are allegedly violated, set forth all such Articles and Sections.

** If additional space is needed to state the facts, use another sheet of paper, and attach hereto.

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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

COMPLAINT

The Complainant alleges as follows:

1.) He received a delivery of 1,000 shares of Canadian Javelin Stock from Merrill Lynch, Pierce, Fenner & Smith, Inc. and issued his check in payment thereof.

2.) Delivery was immediately made of the same 1,000 shares to Edwards & Hanly against an open transaction in Canadian Javelin Stock.

3.) Edwards & Hanly accepted delivery of these shares and then subsequently refused to make payment.

4.) Upon inquiry to Edwards & Hanly, the Complainant had been advised that they had sold out his account the prior day.

5.) Such selling out of Complainant's account was done without notice to him.

6.) Complainant was forced to "Stop Payment" on his check to Merrill Lynch as he would not have sufficient funds for the check to be paid because of Edwards & Hanly's failure to honor their committment to make payment upon acceptance of the 1,000 shares of Canadian Javelin Stock.

7.) Demand was made upon Edwards & Hanly to return the stock delivered and such request was refused.

8.) Further demand was made upon Edwards & Hanly to return the shares to Merrill Lynch since under Street practices, that since they had not been paid, they are entitled to return of their property. Edwards & Hanly refused this request.

Such acts and conduct constitute a violation of the Rules of Fair Practice of this Association and request is made that a hearing be held to examine into this matter.

SAMUEL H. SLOAN d/b/a
SAMUEL H. SLOAN & CO.
ROBERT W. TAYLOR, ESQ.

Robert W. Taylor

ROBERT W. TAYLOR
Attorney-in-fact

August 22, 1973

Raymond L. Aronson, Partner
Director of Compliance
Edwards Haaly
One Whitehall Street
New York, N.Y. 10004

Re: Samuel H. Sloan & Co.

Dear Mr. Aronson:

In reply to your communication of August 17, 1973, please be advised that I have notified Mr. Robert Cale - Legal Department of Merrill Lynch, of the fact that your firm has seized 1,000 shares of Canadian Javelin without making payment therefore and in consequent of that, my client had to issue a "Stop Payment" on his check issued to Merrill Lynch in payment of said 1,000 shares of Canadian Javelin.

I have reviewed the Broker or Dealer Special Omnibus Account Agreement which you supplied me and I can find no provision for waiving of notice relative to any buy-in or sell out activity in such accounts.

I therefore reject your prior explanation to me that my client had waived notice of such activity as required by the NASD rules and procedures.

Accordingly, I have formally notified the New York office of the NASD of the circumstances and seizing by your firm of the shares, actually the property of Merrill Lynch.

Demand is herewith made that Edwards & Haaly return said 1,000 shares of Canadian Javelin to Merrill Lynch as due to the fact that you received no payment from my client and said shares are theirs in accordance with the practice and procedure in the securities industry.

Very truly yours,

Robert W. Taylor

RWT:MB

CC: National Association of Securities Dealers, Inc.
Merrill Lynch

A-282

August 22, 1973

Robert Gale, Esq.
Merrill Lynch, Pierce, Fenner Smith, Inc.
One Liberty Plaza
New York, N.Y. 10006

Re: Samuel H. Sloan Co.

Dear Mr. Gale:

Enclosed please find copies of letters on behalf of my client forwarded to Edwards Manly and to the NASD concerning 1,000 shares of Canadian Javelin.

In accordance with our conversation of yesterday, formal notice is given that Edwards Manly has possession of 1,000 shares of Canadian Javelin delivered by your firm to my client on which he has stopped payment on his check to you.

My client was compelled to this action because Edwards & Manly had refused to make payment on his delivery to them of said Canadian Javelin shares.

Unknown to Samuel H. Sloan Co., Edwards Manly had closed out his account the prior day without any notice as is required under the NASD Rules and are compounding this improper act with a seizure of these shares and that the regular practice of the street are the property of Merrill Lynch.

Very truly yours,

Robert W. Taylor

RWT:ms
Enc.

cc: National Association of Securities Dealers, Inc.
Edwards Manly

A-283
August 22, 1973

Robert Lynch, Esq.
National Association of Securities Dealers, Inc.
77 Water Street
New York, N.Y. 10005

Re: Samuel H. Sloan & Co.

Dear Mr. Lynch:

Enclosed herein please find copies of letters forwarded to Edwards Hanly and Merrill Lynch relative to a transaction involving 1,000 shares of Canadian Javelin.

My client, Samuel H. Sloan & Co. received a delivery of 1,000 shares of Canadian Javelin from Merrill Lynch and issued his check in payment thereof.

He immediately delivered said 1,000 shares to Edwards & Hanly requesting payment for an open transaction in said Canadian Javelin stock.

Edwards Hanly accepted delivery of the stock but refused to make payment to my client for these shares.

Upon inquiry, I was informed by Raymond L. Aronson, Director of Compliance, that Edwards & Hanly had sold out Samuel H. Sloan Co's. account the prior day. No notice as required under NASD Rules - Section 59, was given to Mr. Sloan which was readily acknowledged by Mr. Aronson.

Mr. Aronson stated to me that none was required since notice had been waived by the Broker or Dealer Special Omnibus Account Agreement on file for Sloan & Co.

I received a copy of this Agreement and wish to state that it contains no provision whereby my client waives any notice as required under the NASD Rules, the Agreement in fact recites nothing concerning notice.

I was informed that Edwards & Hanly was going to retain these 1,000 shares of Canadian Javelin under a lien in this Omnibus Account and would therefore not make payment.

Robert Lynch, Esq. August 23, 1973

I informed Mr. Aronson that my client had issued a "Stop Payment" on his check to Merrill Lynch and in my opinion, as payment had not been made such specific shares remain the property of Merrill Lynch and should be returned to them.

To this date, Edwards Hanly has refused to return such shares to Merrill Lynch.

On behalf of my client, I wish to formally file a protest concerning the actions of Edwards Hanly in this matter and request that the Association take whatever punitive steps are necessary to correct the proper procedure and retention of these shares by Edwards Hanly,

Very truly yours,

Robert W. Taylor

RWT:MB
Enclosures

CC: Raymond L. Aronson, Partner
Robert Gale, Esq.

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August 17, 1973

Edwards & Hanly

BY HAND

Robert W. Taylor, Esq.
160 Broadway
New York, N.Y.

Re: Samuel H. Sloan & Co.

Dear Mr. Taylor:

As you requested I am enclosing herewith a copy of Samuel H. Sloan & Co.'s ("Sloan") Special Omnibus Account Agreement with this Firm. As you will note the terms of the Agreement contain no provisions requiring Edwards & Hanly to give any notice to Sloan prior to covering any default in payment or delivery by Sloan.

As I advised you yesterday, we are holding 1,000 shares of the common stock of Canadian Javelin delivered by Sloan, against the loss we sustained in covering short sales of 4,000 shares of Canadian Javelin which Sloan made through this Firm in apparent violation of Securities & Exchange Commission Rule 10a-1. As you know, Mr. Sloan has acknowledged to me that he did not indicate that the sales were short sales and further he admitted that Sloan was not in a position to make delivery of the shares at the time they were sold, or at settlement date.

We understand Sloan wishes the return of the 1,000 shares. If Sloan will now deliver to us cash or a certified check in the sum of $6,611.42 we will be pleased to release the 1,000 shares. If that is not convenient we will either sell a sufficient number of shares to cover our loss of

$6,611.42 or sell the entire 1,000 shares and return the difference between the proceeds of that sale and our loss on the covering transactions.

Please have Sloan deliver the check or cash or make a decision as to the other options available no later than 10:00 A.M. Friday, August 24th.

If we have not either received good funds by that time or heard from Sloan with regard to the other options, we shall take whatever action we deem necessary to protect our interest without further notice to you or Sloan.

Sincerely,

Raymond L. Aronson, Partner
Director of Compliance

RLA:ip
Enclosure

A-287

The City of New York

[illegible]

JOSEPH P. DOLEHAN, Sheriff

September 18, 1973

Evan L. Gordon, Esq.
Delson and Gordon
230 Park Avenue
New York, N.Y 10017

Re: Edwards and Hanly v. Samuel H. Sloan

Dear Sir:

In reference to the above captioned matter, please be advised of the following facts.

On September 7, 1973 an Order of Attachment was filed with this office and served upon Raymond L. Aronson, Compliance Director of Edwards and Hanly. On September 13, 1973 a statement was received from Edwards and Hanly indicating that they were holding 1,000 shares of Canadian Javelin Ltd. belonging to the defendant. On September 17, 1973 said shares of stock were turned over to this office and are now in our possession.

Very truly yours,

Joseph W. Dolcimascolo

Joseph W. Dolcimascolo
Attorney
New York County Division

ms

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EDWARDS & HANLY, a Limited Partnership,

Plaintiff,

-against-

SAMUEL H. SLOAN,
DBA SAMUEL H. SLOAN & CO.,

Defendant.

Index No.

COMPLAINT

Plaintiff, EDWARDS & HANLY, by Delson & Gordon, its attorneys, complaining of the defendant, alleges:

1. Plaintiff is now and at all times hereinafter mentioned has been a New York limited partnership, with a principal office and place of business in the City, County and State of New York.

2. Upon information and belief, at the times mentioned herein, the defendant was a broker-dealer registered with the Securities and Exchange Commission, but not a member of the National Association of Securities Dealers or any exchange maintaining its principal office and place of business in the City, County and State of New York.

3. On July 17, 1973, trade date, defendant sold through plaintiff, 2,000 shares of the common stock of Canadian Javelin Ltd., 1,700 of which were sold at a price of 10-5/8 per share and 300 of which were sold at 10-1/4 per share. On July 25, 1973, defendant sold an additional 2,000 shares of the above-mentioned stock

through plaintiff, of which 1,000 were sold at 13-1/8 per share and the remaining 1,000 at 13 per share.

4. Thereafter, and on or about August 14, 1973, defendant was advised by the Market Surveillance

[illegible] short sales [illegible] Exchange Act of 1934. Upon receipt of such advice, plaintiff attempted to contact defendant to learn if defendant was in a position to deliver shares of Canadian Javelin stock either at the time sales were made or at that time.

5. Plaintiff was unable to contact defendant and, therefore, on August 14, 1973 in accordance with applicable rules and regulations, plaintiff purchased 4,000 shares of common stock of Canadian Javelin for the account and risk of defendant at a price of 13-1/4 per share. Plaintiff did not reached the defendant on August 15, 1973 at which time defendant advised plaintiff that he was not in a position to deliver 4,000 shares of Canadian Javelin stock either at the time the sales were made or at the time of the telephone call.

6. By reason of the foregoing, plaintiff has been damaged in the sum of $6,611.42 which is the difference between the price at which the defendant sold said 4,000 shares and the price required to be paid by the plaintiff to buy in said 4,000 shares as aforesaid. Plaintiff has

demanded payment of said sum from defendant, no part which has been paid.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $6,611.42, together with interest to the 21st day of August, 1973 and the costs and disbursements of this action.

DILSON & GORDON
Attorneys for Plaintiff
Office and P. O. Address
630 Park Avenue
New York, New York 10017
688-8030

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

RAYMOND L. ARONSON, being duly sworn, deposes and says that deponent is a partner of Edwards & Manly, the plaintiff in the within action; that deponent has read the foregoing complaint and knowns the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

RAYMOND L. ARONSON

Sworn to before me, this
6th day of September, 1973.

EVAN L. GORDON
NOTARY PUBLIC, State of New York
No. 31-1510400
Qualified in New York County
Commission Expires March 30, 1975

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EDWARDS & HANLY, a limited partnership,
Plaintiff,

-against-

SAMUEL H. SLOAN
DBA SAMUEL H. SLOAN & CO.,
Defendant.

Index No. 15876/73

ANSWER AND VERIFIED STATEMENT OF COUNTERCLAIM

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State of New York)
: ss.:
County of New York)

Samuel H. Sloan, being duly sworn, deposes and says:

1. He is the defendant named in the above entitled action.

2. He denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first and fourth paragraphs.

3. He denies the allegations contained in the fifth and sixth paragraphs.

4. This court lacks subject matter jurisdiction as to the claim of plaintiff since controversies of this sort are the exclusive jurisdiction of the U.S. District Courts under Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa).

5. There is a related action pending in the U.S. District Court for the Southern District of New York bearing the docket number 73 Civil 4403 entitled Samuel H. Sloan v. Canadian Javelin Ltd., et al. Edwards & Hanly is named as one of the defendants in that action.

6. In that action Edwards & Hanly has answered but has not interposed a counterclaim. In accordance with the Federal Rules of Civil Procedure which require a compulsory counterclaim, Edwards & Hanly is now precluded from pursuing any claim based on these transactions before any court.

7. Plaintiff failed to provide defendant with proper notice.

* * * *

defendant.

9. Plaintiff committed illegal acts including fraudulent misrepresentations, larceny, and wrongful conversion and consequentially is barred from any recovery from the defendant.

10. Defendant seeks to remove this action to the United States District Court and to consolidate it with the action bearing the docket number 73 Civil 4403.

11. Any losses were the result of a market manipulation in violation of an injunction obtained by the Securities & Exchange Commission against Canadian Javelin Ltd. and John C. Doyle, its chairman, on September 25, 1958 in an action bearing the docket number 58 Civil 138-85.

12. Plaintiff has failed to join necessary parties including Canadian Javelin Ltd., John C. Doyle, and the American Stock Exchange.

13. On August 15, 1973 defendant telephoned the offices of Bob Della, cashier of Edwards & Hanly, to request that defendant be allowed to deliver 1000 shares of Canadian Javelin Ltd. against payment of about $13000.00.

14. A clerk who worked for Mr. Della agreed to accept the

delivery and to pay the agreed upon sum to defendant immediately upon delivery.

15. Accordingly, defendant personally delivered these shares to the offices of plaintiff.

16. The clerk at the receive window told defendant it would take about an hour to prepare the check.

17. While waiting for the check defendant returned to his office and there received a telephone call from Arthur Foote, a partner in Edwards & Hanly, who advised defendant that he, Foote, had instructed his cashiers department not to pay defendant the money and not to return the shares to defendant.

and told Foote that a refusal to do so constituted both wrongful conversion and grand larceny.

19. This demand was refused.

20. On August 15 and 16 defendant contacted the NASD, the S.E.C., the New York Stock Exchange, the American Stock Exchange, the District Attorney, the U.S. Attorney, and the New York City Police in an effort to obtain the recovery of these shares.

21. All of these agencies referred defendant to his remedies at law.

22. On August 16, 1973 defendant sent a telegraphic message to the S.E.C. Pursuant to Rule X-17a-11 of the Securities & Exchange Commission advising the S.E.C. that he was closing his business as a result of the tortuous acts of Edwards & Hanly.

23. On September 6, 1973, defendant, through his attorney, Robert W. Taylor, filed a complaint with the District Business Conduct Committee of the National Association of Securities Dealers and requested a hearing into the above described matters.

24. Edwards & Hanly has failed to answer this complaint.

25. Aware of the policy of the NASD in that it generally declines to take action with respect to matter before the courts, Edwards & Hanly commenced this civil action on September 7, 1973.

26. On that day plaintiff obtained an order of attachment signed by Judge Vincent A. Lupiano based on an affidavit of Raymond L. Aronson, house council for Edwards & Hanly.

27. Paragraph 7 of that affidavit stated: "My firm is currently holding 1000 shares of Canadian Javelin stock for the account of the defendant and it is this stock which we wish to attach."

28. On September 13, 1973 plaintiff caused the order of attachment to be served upon itself by the Sheriff.

29. On September 14, 1973 Canadian Javelin Ltd. closed for

30. On September 17, 1973, a Monday, [illegible] the 1000 shares of Canadian Javelin Ltd. over to the Sheriff.

31. That week deponent called the offices of Delson & Gordon, attorneys for Edwards & Hanly, to ask that the 1000 shares of Canadian Javelin be, in any case, sold immediately because the rapid rise in price of Canadian Javelin Ltd., as well as its history of market manipulation and subsequent suspension

by the S.E.C. caused defendant to beat that these shares could be subject to a sudden decline in price. On the day of this conversation Canadian Javelin Ltd. sold for 18.

32. These shares were never sold and are still in the possession of the Sheriff.

33. On October 25, 1973 the American Stock Exchange halted trading in Canadian Javelin Ltd. and this halt has continued to the present.

34. At the present the 1000 shares of Canadian Javelin Ltd. are, for practical purposes, worthless.

AS AND FOR A STATEMENT
OF COUNTERCLAIM

35. Defendant repeats and reiterates all of the allegations contained in paragraph 1 through 34.

36. Defendant has been damaged in the amount of $18000.00, the highest price for which the 1000 shares of Canadian Javelin Ltd. could have been sold.

37. The tortuous acts of plaintiff have resulted in the closing of defendant's business on August 16, 1973, have destroyed the credit rating and reputation for integrity of defendant, and may have thrown him into violation of the Rules of the Securities & Exchange Commission. Defendant is entitled to actual damages in the amount of $2,000,000.

38. Defendant is entitled to punitive and exemplary damages in the amount of $5,000,000 particularly due to the illegal

acts of plaintiff.

WHEREFORE, defendant demands that the claim of plaintiff be dismissed and that the defendant be awarded $2,018,000 in actual damages and $5,000,000 in punitive and exemplary damages plus costs and interest.

Samuel H. Sloan

SAMUEL H. SLOAN

Sworn to before me this
28th day of November, 1973.

William Lebenty

WILLIAM LEBENTY
Notary Public, State of New York
No. 24-2[illegible] Qualified in Kings Co.
Certificate filed in New York County
Commission Expires March 30, 1975

COUNTY OF NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------x

EDWARDS & HANLY, a Limited Partnership, :

Plaintiff, : Index No. 15876/73

-against- :

SAMUEL H. SLOAN, DBA SAMUEL H. SLOAN & CO., : VERIFIED REPLY

Defendant. :

----------x

Plaintiff, EDWARDS & HANLY, replying to the counterclaim of the defendant by DELSON & GORDON, its attorneys, alleges:

1. Denies each and every allegation of paragraphs 4, 7, 8, 9, 11, 12, 24, 28, 30, 34, 36, 37 and 38 of the counterclaim.

2. Denies each and every allegation of paragraph 5 of the counterclaim, except admits that the plaintiff is named as a defendant in the action pending in the United States District Court, Southern District of New York, Docket No. 73 Civ. 4403.

3. Denies each and every allegation of paragraph 6 of the counterclaim, except admits that in the Federal Court it has answered and has not interposed a counterclaim.

4. Denies each and every allegation of paragraph 10 of the counterclaim, and specifically denies that

defendant is entitled to remove this action to the United States District Court.

5. Denies each and every allegation of paragraph 13 of the counterclaim, except admits that defendant demanded return of the shares.

6. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation of paragraph 24 of the counterclaim, except denies that the defendant closed his business as a result of any tortious act on the part of the plaintiff.

7. Denies each and every allegation of paragraph 25 of the counterclaim, except admits that EDWARDS & HANLY commenced the instant action on or about September 7, 1973.

8. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation of paragraph 29 of the counterclaim.

9. Denies each and every allegation of paragraph 31 of the counterclaim, except admits that during the week of September 17, 1973 defendant called the offices of Delson & Gordon, attorneys for EDWARDS & HANLY, and demanded that the 1,000 shares of Canadian Javelin stock be sold and the monies returned to him.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE TO THE COUNTERCLAIM

10. The counterclaim fails to state a cause of action against the plaintiff, EDWARDS & HANLY, since at all times EDWARDS & HANLY was acting lawfully and properly in an attempt to protect its rights.

WHEREFORE, plaintiff demands judgment dismissing the counterclaim together with the relief demanded in the original complaint and for such other and further relief as to the court may seem just and proper.

DELSON & GORDON
Attorneys for Plaintiff
Office and P. O. Address
230 Park Avenue
New York, New York 10017
686-8030

TO:

SAMUEL H. SLOAN
120 Liberty Street
Room 900
New York, New York

VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

RAYMOND L. ARONSON, being duly sworn, deposes and says that deponent is a partner of Edwards & Hanly, the plaintiff in the within action; that deponent has read the foregoing Reply and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

RAYMOND L. ARONSON

Sworn to before me, this
day of December, 1973.

At a Special Term, Part II of the Supreme Court of the State of New York, held in and for the County of New York, at the County Courthouse, 60 Centre Street, New York, New York, on the 17th day of September, 1973.

P R E S E N T :

Hon. VINCENT A. LUPIANO

Justice.

EDWARDS & HANLY, a Limited Partnership,

Plaintiff,

-against-

SAMUEL H. SLOAN, DBA SAMUEL H. SLOAN & CO.,

Defendant,

15876/73
Index No.

ORDER OF ATTACHMENT

A motion having been made by the plaintiff for an order of attachment against the property of the defendant, SAMUEL H. SLOAN, DBA SAMUEL H. SLOAN & CO., in an action pending in the Supreme Court, New York County;

Now upon reading the summons and verified complaint herein, the affidavit of Raymond L. Aronson,

I, EVAN L. GORDON AN ATTORNEY AT LAW, DO HEREBY CERTIFY PURSUANT TO RULE 2105 CPLR, THAT I HAVE COMPARED THE FOREGOING WITH THE ORIGINAL AND HAVE FOUND IT TO BE A TRUE AND COMPLETE COPY.

DATED: Sep 7, 1973

Evan L. Gordon
SIGNATURE

EVAN L. GORDON
TYPED OR PRINTED NAME

sworn to the 6th day of September, 1973 with exhibits attached, and the affidavit of Betty Licht, sworn to the 6th day of September, 1973 wherein it appears that a cause of action for a money judgment exists in favor of the plaintiff and against the defendant for the sum stated in said verified complaint, namely, $5,611.42 with interest from the 21st day of August, 1973, and that plaintiff is entitled to recover said sum above all counterclaims known to it; and it being further shown by said affidavits and verified complaint that the plaintiff is entitled to an order of attachment against the property of the defendant on the grounds that said defendant resides in the state and cannot be personally served despite diligent efforts to do so ~~and that the defendant with intent to defraud his creditors or to avoid the service of the summons has departed from the state or keeps himself concealed therein,~~ and the undertaking required by law having been submitted herewith;

Now on motion of Delson & Gordon, attorneys for the plaintiff, it is

ORDERED, that the plaintiff's undertaking be and the same hereby is fixed in the sum of $662 of which the sum of $331 thereof is conditioned that the plaintiff will pay to the defendant all legal costs and damages which may be sustained by reason of the attachment if the defendant recovers judgment or it is finally

decided that the plaintiff was not entitled to an attachment of the defendant's property, and the balance thereof is conditioned that the plaintiff will pay the sheriff all of his allowable fees; and it is further

ORDERED, that the sheriff of the City of New York, or the sheriff of any county of the State of New York, levy within his jurisdiction at any time before final judgment upon such property in which the defendant has an interest and upon such debts owing to the defendant as will satisfy the plaintiff, the debt of $6,611.42 together with probable interest, costs and the sheriff's fees and expenses and that it proceed herein in the manner required by law ~~and it is further~~

ENTER WITHIN TEN DAYS

V.A.L.
J.S.C.

SUPREME COURT : NEW YORK COUNTY

SPECIAL TERM : PART I

----------x

EDWARDS and HANLY
a limited partnership

Plaintiff,

Index No.15876-73

SAMUEL H. SLOAN d/b/a
SAMUEL H. SLOAN and CO.

Defendant.

----------x

MARGARET M. J. MANGAN, J

Defendant's motion for an order vacating the attachment order is denied. The attachment order was properly granted on a showing of inability to serve the defendant personally. (CPLR 6201 [2]). The defendant continues to be unavailable for personal service. There is no evidence impugning the validity of the attachment order. Nor is there any evidence that attachment is unnecessary to the security of the plaintiff (CPLR 6223).

The defendant having requested an interim order directir the sale of the securities by the Sheriff and the plaintiff not opposing such a sale, an order may be settled for this purpose . (CPLR 6218 [a]).

Dated Oct 31st, 1973

J.S.C.

Edwards & Hanly etc

— against —

Samuel H Sloan etc

MOTION FOR ORDER TO SHOW CAUSE
JUSTICE

Dated: DEC 21 1973

The following papers numbered 1 to 24 read on this motion

	PAPERS NUMBERED
Notice of Motion — Order to Show Cause — and Affidavits Annexed	1-5
Answering Affidavit	8-23
Replying Affidavit	
Affidavit	6-7
Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

Upon the foregoing papers this motion by the defendant to an order vacating the order of attachment is denied. The attachment order serves a dual purpose — acquiring jurisdiction and security — and merely submitting proof to the court's jurisdiction as insufficient to warrant vacatur. It must also be shown that the attachment is unnecessary to the plaintiff's security. (CPLR 6223; Rosen & Fuller Company, Inc. v. Vita Corporation of America, 21 AD 2d 916.)

A-307

Dated January 9 1974

Briefs: Plaintiff's..... Defendant's..... Petitioner's..... Respondent's..... Relator's.....

Briefs.....

J.S.C.

County Clerk's No. 15876, 19 73

Spec I Liber E60 Line 1, 19 73

EDWARDS & HANLY,

Plaintiff,

-v-

SAMUEL H. SLOAN d/b/a
SAMUEL H. SLOAN & CO.,

Defendant.

AFFIDAVIT

Index No. 15876/73

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Samuel H. Sloan, being duly sworn, deposes and says:

1. He has been advised by telephone by Mr. Ray Aronson, house counsil for Edwards & Hanly, that he is the defendant in the above entitled action.

2. He has not been served with any papers in connection with the above entitled action nor to the best of his personal knowledge have any attempts been made to effect service upon him. Therefore, he is of the opinion that this court has no jurisdiction over this action.

3. He has been advised by plaintiff that in the opinion of the attorney for plaintiff that quasi in rem jurisdiction has been obtained through an order of attachment signed by Judge Vincent A. Lupiano on September 7, 1973 and that the thing of value attached is 1000 shares of Caradian Jevelin Ltd. These shares were in the possession of plaintiff at the time the order of attachment was signed.

4. It is the intention of plaintiff to effect service by publication through the use of these attached shares.

5. Plaintiff obtained possession of these shares in the following manner: On August 15, 1973 defendant telephoned the offices of Bob Della, cashier of Edwards & Hanly, to request that he be allowed to deliver 1000 shares of Canadian Javelin against payment of about $13000. A clerk who worked for Mr. Della agreed to accept the delivery and to pay [illegible] to defendant immediately upon delivery. Accordingly, defendant personally delivered these shares to the offices of plaintiff. The clerk at the receive window told defendant it would take about an hour to prepare the check. While waiting for the check defendant returned to his office and received a telephone call from Arthur Foote, a partner in Edwards & Hanly, who advised him that he, Foote, had instructed his cashiers department not to pay defendant the money and not to return the shares to defendant. He also said that it was his belief that plaintiff had no obligation to pay defendant the moneys properly owed to him and he alleged that defendant owed plaintiff money as the result of another transaction.

6. Defendant told Mr. Foote that plaintiff had not notified him of this alleged indebtedness nor had they informed him of their intention to buy-in these shares and that to retain his property under the circumstances constituted both wrongful conversion and grand larceny.

7. Defendant immediately demanded that these securities be returned to him. This demand was refused. Personally and

through his attorney defendant contacted a number of agencies which regulate securities trading in an effort to obtain the return of these securities including the NASD, the S.E.C., the New York Stock Exchange, and the American Stock Exchange.

8. Apparently in response to inquiries from these agencies plaintiff has taken the unusual step of obtaining an order of attachment solely for the purpose of justifying an unlawful act, namely the improper retention and conversion of 1000 shares of Canadian Javelin.

9. Now the Sheriff of the County of New York has received these shares from plaintiff and is holding them pursuant to said order of attachment.

10. Canadian Javelin Ltd. is a highly volitile security listed on the American Stock Exchange. On September 14, 1973, [illegible] Sheriff, it closed at a price of 18. A copy of a newspaper showing this closing price is attached hereto and marked Exhibit A. However, as recently as June of this year it traded as low as 7. Therefore, there is a great market risk in permitting these shares to be attached.

11. Presently the value of the shares attached is $18000.00 which is an amount far in excess of the $6611.42 which plaintiff claims as damages.

12. Due to the volitile nature of these securities and the fact that defendant fears they are likely to go down in price, defendant desires to have these shares sold immediately in order

to reduce the market risk and eliminate unnecessary litigation.

13. Plaintiff has severly interfered with the property rights of defendant through an act of conversion. This conversion appears to have taken place on September 14, 1973. The highest price of this security within a reasonab e time after conversion took place was 18. Therefore damages should be fixed at $18000.00.

14. Because of the volitile nature of the security and because of defendants desire to avoid unnecessary litigation he requests that the court issue an interum order for the immediate sale of these securities pending the determination of the remaining issues involved in this motion.

15. The order of attachment should be vacated because an attachment is unnecessary and should not apply to this matter. Certain allegations upon which the order of attachment is based are untrue, namely that defendant moved from his office at 11 Broadway six months ago. Plaintiff knows this to be untrue because it sent messengers to the office of defendant at least once a week for the last six months and employees of plaintiff spoke to defendant on almost a daily basis during that time. Moreover the sole purpose of this attachment was to attach securities already in the possession of plaintiff. This would seem to subvert the purpose for which the remedy of attachment

---

where defendant has been denied both notice and an opportunity for a hearing.(Fuentes v. Shevin 92 S. Ct. 1983 (1972)). Plaintiff failed to notify defendant of the pending order of

attachment. He could have done this easily simply by mailing said notice to defendant's office, or by speaking to his lawyer. Plaintiff has been on the telephone with defendant's attorney on almost a daily basis and defendant's lawyer has written letters to plaintiff concerning this matter. For this reason there is neither a security basis nor a jurisdictional basis for the order of attachment.

16. The order of attachment is defective in the papers because it is based on the premise that defendant resides in the state and cannot be personally served despite diligent efforts to do so. However, nowherein the papers is it alleged that defendant resides in the state. NO PRIOR APPLICATION HAS BEEN MADE FOR THE RELIEF REQUESTED HEREIN

WHEREFORE, defendant respectfully prays that the court grant an order

1. Directing the Sheriff to sell the 1000 Shares of Canadis Javelin at the best available market through a broker on the American Stock Exchange.

2. Directing that the court affix the value of the shares [illegible] plaintiff at $18000.

3. Vacating the order of attachment of September 7, 1973.

4. Directing the Sheriff to pay to defendant the proceeds from the sale of 1000 shares of Canadian Javelin Ltd.

5. Directing Edwards & Hanly to pay to defendant the diff between the amount paid to him by the Sheriff and $18000.00 ir the event that the sheriff pays defendant less than $18000.00

6. Dismissing the action for lack of rem or in personam jurisdiction.

7. For such other and further relief as may be just and equitable.

Sworn to before me this
25 day of September, 1973.

Nicholas Venezia

NICHOLAS VENEZIA
Notary Public, State of New York
No. 43-0157725
Qualified in Richmond County
Certificate filed in New York County
Commission Expires March 30, 1974

Samuel H. Sloan

SAMUEL H. SLOAN

THE NEW YORK TIMES, SUNDAY, SEPTEMBER 16, 1973

American Stock Exchange

WEEK ENDED SEPT. 14, 1973

Yearly High	Low	Stocks and Div. In Dollars	P/E	Sls. 100s	High	Low	Last	Net Chng
12¼	4½	Gannor Stef	5	31	4½	4¼	4½	+ ⅛
14⅜	6⅞	Gearhart .24	7	17	7⅞	7½	7½	— ⅛
2⅜	1⅛	Gen Builders	27	12	1⅜	1⅜	1⅜	— 1/16
37¼	14⅜	G Cinma .40	8	277	17⅛	14⅞	15⅞	
7	3	GenEduc Sv	.3	86	3⅛	3	3	— 1/16
4⅜	1⅜	G Emsl .08e	9	24	3⅜	3	3	— ⅛
7⅜	2¼	G Housewar	3	27	3	2¾	3	+ ⅛
9¼	4⅜	Gen Interior		241	6	4⅜	5⅛	
2⅜	1⅜	G Plyw .01e		46	2	1⅞	1⅞	
6⅜	2⅜	Gen Recraf	7	112	4⅛	4⅛	4⅛	
11⅞	5	Gen Resrch	5	31	6⅝	5⅛	5⅛	— 1/16
12¾	4¾	Genes Inc	6	27	5⅛	4⅞	4⅞	— ⅛
4	1⅞	Genisco Tch	18	44	2⅜	1⅝	2⅛	+ ⅛
22	6½	Geon 4nd	12	225	11⅛	10¼	11⅛	
6⅞	4⅜	Gerber Scl	21	35	5	4⅜	4⅞	
22⅛	11⅜	Grant F .50a	6	79	12⅛	12	12⅛	+ ⅛
11¾	7	Grant Y .40e	13	278	10	9⅛	9⅛	
2⅛	⅛	Gilbert Cos		1	1	1	1	
10⅛	8⅛	GIT RI 1.20a	9	23	10	9⅛	10	+ ⅛
8⅛	3⅛	Gladng .12t	6	86	4⅛	4	4	— 1/16
7⅛	3⅜	Glasrock Pr		95	4⅛	4⅛	4⅛	— ⅛
19⅛	16	GlatfltrP .80	7	12	18⅜	17⅜	17⅜	
33⅛	32	Glatfltr pf		1	33⅛	33⅛	33⅛	+ 1⅛
8½	5½	Gln Gor .20r	4	13	5⅞	5⅜	5⅜	
10⅜	8⅛	GlenDis .42t	12	12	10	9½	10	+ ⅛
7⅛	5⅛	Gleeind .40	7	1	6⅜	6⅜	6⅜	
15⅜	6	GlobeSec Sy	5	43	6½	6	6	— ⅛
14⅜	7	Glosser .22	5	18	9	8⅛	8⅛	+ ⅛
16⅛	10¼	Gloucstr En	6	12	13⅛	12⅜	13	— ⅛
13⅜	7½	Glover Inc	5	21	8⅛	7⅞	8	
6⅜	5½	Glabram .36	6	20	6⅛	6	6⅛	
27	16	Golcon Cvct	11	50	19⅛	17¾	17¾	— 1¼
10⅜	3⅜	Gold M Mng	9	9	4⅛	4⅛	4⅛	— ⅛
		GoodLS .06	6	99	4⅜	3⅝	3⅝	— ⅛

MOST ACTIVE STOCKS

Week ended September 14, 1973

Company	Volume	Last	Net Chng.
TWA wt	340,800	3⅜	— 1½
Cdn Javelin	270,300	18	+ 4
Houst Oil M	219,300	57	+ 9⅜
Champ Home	182,500	5¼	— ⅜
Bowmar Ins	158,200	39	+ 5⅜
Marinduq 3	154,000	5⅜	+ ⅞
Syntex Corp	148,600	101	+ 8⅜
McCull Oil	145,000	5⅛	— ⅛
Bio Dynam	142,900	13¾	+ ⅜
Imper Oil	141,100	42	— 3⅞

MARKET BREADTH

	Last Week	Preceding Week
Issues Traded	1,325	1,327
Advances	441	590
Declines	609	486
New Highs	22	17
New Lows	80	69

VOLUME

	Last Week	Year to Date
Total stock sales	10,276,580	508,342,170
Same period a year ago	14,906,905	867,073,398
	Last Week	Year to Date
Total bond sales	$6,804,000	$321,886,000
Same period a year ago	9,211,000	$64,334,000

Yearly High	Low	Stocks and Div. In Dollars	P/E	Sls. 100s	High	Low	Last	Net Chng
37¼	23½	Kinet						

Yearly High	Low	Stocks and Div. In Dollars	P/E	Sls. 100s	High	Low	Last	Net Chng
6⅜	3⅜	Ozark Airlin	25	147	4	3⅜	3⅜	+ ⅛
2⅛	⅜	P&F Indust	..	49	1⅛	1	1⅛	+ ⅛
3⅛		PC Cst Prp	..	18	2	1⅜	1⅜	— ⅛
20⅛	19⅜	PGE6pf	1.50	..	64	20⅛	19⅜	19⅜	
18	17½	PGE pf	1.37	..	16	18	17⅜	18	+ ⅛
17⅝	15⅜	PGE5pf	1.25	..	2	16½	16⅜	16½	+ ⅛
17⅛	15½	PGRd pf	1.25	..	11	15⅝	16	16⅛	+ ⅛
17⅞	16	PG pf4	1.25	..	7	16½	16⅛	16⅛	
17	14⅞	PG 4.8pf	1.20	..	1	15⅜	15⅜	15⅜	+ ⅛
16	13⅛	PG 4.5pf	1.12	..	1	14⅜	14⅜	14⅜	+ ⅛
15⅜	13½	PG 4.3pf	1.09	..	7	14⅛	14	14⅛	+ ⅛
31⅜	27½	PG 9.2pf	2.32	..	11	28⅜	28⅛	28⅜	+ ½
28⅜	25⅝	PG 8 1pf	2.34	..	21	25⅝	25⅝	28½	— ⅛
30⅜	27½	PGE 9pf	2.25	..	13	28⅛	28	28⅛	+ ½
27½	24⅜	PG 7.8pf	1.96	..	22	25½	25⅜	25⅜	— ⅛
27¾	25⅜	PGE pf 2			5	26	26	26	— ½
10⅜	6½	P Holdg .34	11.	91	13⅛	9⅛	10½	+ ⅛
17	15⅜	PHc d pf1.20	..	x2	15⅛	15⅜	15⅜	
104½	95⅛	PacLt pf7.04	..	y60	97½	95⅛	95⅛	
66⅜	59	PacLt pf6.75	..	y100	60½	60	60½	+ 1⅛
64	56	PacLt pf5.50	..	z200	60	60	60	
61½	52	PacLt pf4.36	..	z250	57½	57	57	+ 1
16⅛	13⅛	PNwTel 1.04	9	130	13⅝	13⅛	13⅜	— ⅛
⅛	1-32	PacNw Bl wt	..	1402	⅛	1-32	1-32	-1-16
68½	61⅞	Pac PL pf 5	..	z100	65	64	64	— 1
19	7¾	PacSv L .28	4	x36	9⅛	8⅜	9	+ ⅛
18⅜	9⅞	Pall Corp	19	106	17	15⅞	17	+ ⅛
9	3	PalomF .10e	3	52	3⅜	3¼	3¼	— ⅛
18⅛	11	PaloM 1.70e	7	226	14⅜	11	12⅜	— 1⅛
2⅛	1	PalmrM6 wt		113	1⅛	1	1	— ⅛
13⅛	5⅛	Pandl Bradd	11	35	6⅜	6	6⅜	— ⅜
2⅜	2	Pantasote	18	38	2⅜	2⅜	2⅜	— ⅛
7½	3⅜	ParaPke .10	5	2	3⅞	3⅞	3⅞	— ⅛
7¼	3½	Park Ch .36	7	3	6	5⅜	5⅜	— ⅜
8	4⅜	Park El .36t	7	7	6 ⅛	5	5	
6⅜	2⅜	Parklan Hos	5	7	3	2⅞	2⅞	— ⅛
13	4	ParbwY Dis	6	13	5⅞	5¼	5½	+ ⅛
35	19½	Parsons .33e	21	85	30⅜	27⅜	30½	+ 2⅜
6½	2½	Pat Fish .24	4	21	2⅝	2⅝	2⅝	
21⅞	11⅛	Patagoni Co	9	9	11⅞		19	
5½	2½	PatPar						
12⅛	6⅛	Patr						
17⅞	11½	Pe						

Edwards & Hanly

247

200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11511

CONFIRMATION AS OF

1/29/73

BROKER NUMBER

TO NAME

Sam Skeen
44 Liberty Street
New York, NY 10006

SETTLEMENT DATE	NUMBER OF SHARES / PAR VALUE OF BONDS: WE ARE BORROWING	WE ARE LOANING	SECURITY	INTEREST	PRINCIPAL	BROKER NUMBER
1/30/73		2,100	CANADIAN JAVELIN LTD		[illegible]	1073
1/30/73		300	CANADIAN JAVELIN LTD		[illegible]	1073
1/30/73		2,600	CANADIAN JAVELIN LTD		[illegible]	1073
1/30/73		3,100	CANADIAN JAVELIN LTD		[illegible]	1073
TOTAL		8,300			[illegible]	

NOTE: IF CORRECT, PLEASE SIGN THE ATTACHED RECEIPT AND RETURN.
IF ANY DISCREPANCIES OCCUR, PLEASE ADVISE US IMMEDIATELY.

A-315

247

Edwards & Hanly

200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551

CONFIRMATION AS OF

12/7/73

BROKER NUMBER

NO NAME

Sam Sloan
11 Broadway.
New York, NY

SETTLEMENT DATE	NUMBER OF SHARES / PAR VALUE OF BONDS: WE ARE BORROWING	NUMBER OF SHARES / PAR VALUE OF BONDS: WE ARE LOANING	SECURITY	INTEREST	PRINCIPAL	BROKER NUMBER
[illegible]		[illegible]	CANADIAN JAVELIN LTD		$4,000.00 $4,000.00	[illegible]

NOTE: IF CORRECT, PLEASE SIGN THE ATTACHED RECEIPT AND RETURN.
PLEASE ADVISE US IMMEDIATELY.

A-316

STATEMENT OF

[illegible] BULL & LOAN & CO
LIMITED ACCOUNT
11 [illegible]
NEW YORK N Y 10004

A-317

Edwards & Hanly
MEMBERS NYSE

200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551
(516) 535-1700
(212) 895-5600

IN ACCT. [illegible]

[illegible] 003 | 22546 | C00C
YOUR ACCOUNT NO. R.R.

TYPE OF ACCOUNT
1. CASH
2. MARGIN
3. SHORT
4. SPECIAL SUBSCRIPTION
5. SPECIAL CV BOND
6. SPECIAL LOAN
7. WHEN ISSUED CASH
8. WHEN ISSUED MARGIN
9. SPECIAL BOND

KINDLY PRESERVE THIS STATEMENT FOR INCOME TAX PURPOSES

DATE	SECURITIES PURCHASED OR RECEIVED	SECURITIES SOLD OR DELIVERED	DESCRIPTION	PRICE	AMOUNT DEBIT	AMOUNT CREDIT	LAST AMT. IN THIS COLUMN IS BALANCE OF THAT ACCT. "CR." INDICATES DUE YOU	TYPE OF ACCOUNT
[illegible]17			CK PICKED UP & DEP IN NY	JRL				1
[illegible]17	1000		CANADIAN JAVELIN LTD	7 1	7331 69			1
[illegible]17	1000		CANADIAN JAVELIN LTD	7 1/8	7206 70			1
[illegible]17		2000	CANADIAN JAVELIN LTD	JRL		[illegible]		1
[illegible]17			MO US STK LOAN OPEN ITEM CALL				GC	

E. & O. E.

NOTICE: This statement should be [illegible] information that may be [illegible] verify interest charges accurately [illegible] ments.

MEMBERS
NEW YORK STOCK EXCHANGE INC.
AMERICAN STOCK EXCHANGE

100 CANADIAN JAVELIN LTD
FIRM BUY IN
AS OF 06/07/73

7 1/4

PRINCIPAL 72500

3008300360741 C000N 241

SAMUEL H SLOAN & CO
120 LIBERTY ST
NEW YORK N Y 10006

NET AMOUNT 725.00
SETTLEMENT DATE 06/14/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE & CODES

MEMBERS
NEW YORK STOCK EXCHANGE INC.
AMERICAN STOCK EXCHANGE

ON ORDERS OTHER THAN ROUND LOTS NORMALLY 100 SHARES ON ALL EXCHANGES AN AMOUNT HAS BEEN ADDED TO THE PRICE ON PURCHASES OR DEDUCTED ON SALES ON ALL REPORTING STOCK EXCHANGES THIS AMOUNT IS 1/8 PER SHARE FOR ISSUES SELLING AT $55 OR UNDER AND 1/4 PER SHARE FOR ISSUES SELLING OVER $55 PER SHARE. IN ALL OTHER CASES AN EXPLANATION WILL BE PROVIDED ON REQUEST

500 CANADIAN JAVELIN LTD
FIRM BUY IN
AS OF 06/04/73

7

PRINCIPAL 350000

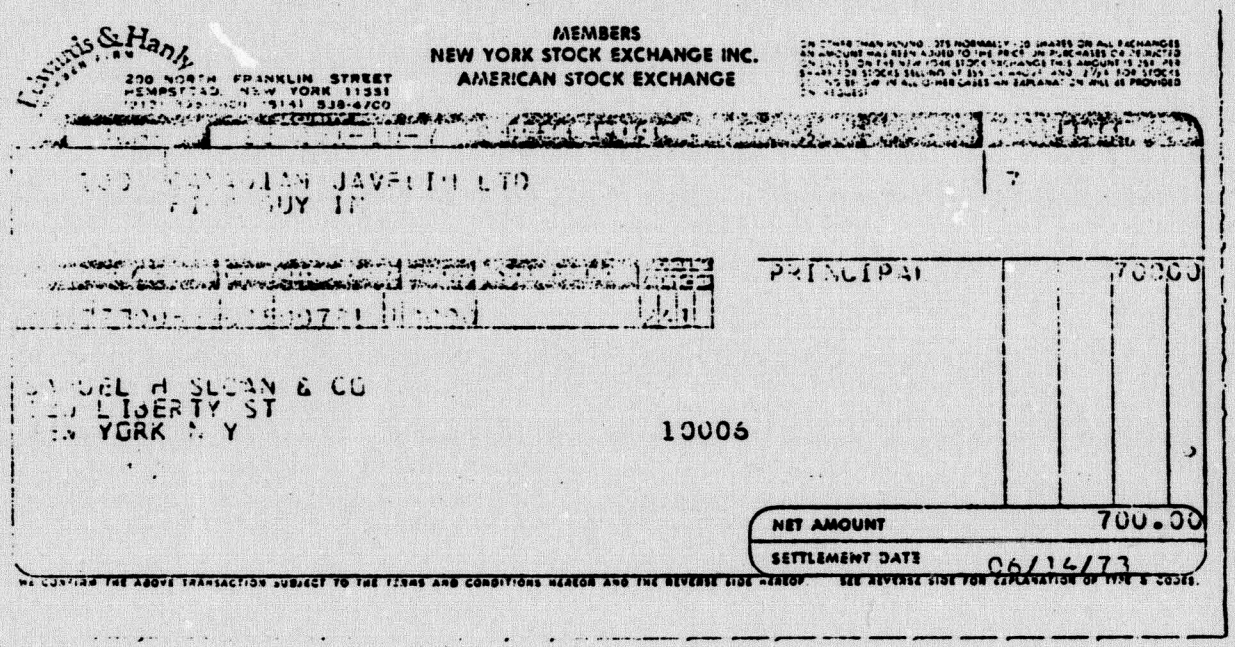
3008300360741 C000 241

SAMUEL H SLOAN & CO
120 LIBERTY ST
NEW YORK N Y 10006

NET AMOUNT 3,500.00
SETTLEMENT DATE 06/11/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE & CODES.

A-319



Harris & Hanly

200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551
(212) 895-[illegible] (516) 538-4700

MEMBERS
NEW YORK STOCK EXCHANGE INC.
AMERICAN STOCK EXCHANGE

[illegible] JAVELIN LTD
[illegible] BUY 17

PRINCIPAL 700.00

[illegible] SLOAN & CO
[illegible] LIBERTY ST
[illegible] YORK N Y 10006

NET AMOUNT 700.00

SETTLEMENT DATE 06/14/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE & CODES.

SAMUEL H. SLOAN & CO.
200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551
(212) 539-3600 (516) 538-4700

MEMBERS
NEW YORK STOCK EXCHANGE INC.
AMERICAN STOCK EXCHANGE

ON OTHER THAN ROUND LOTS NORMALLY 100 SHARES ON ALL EXCHANGES AN AMOUNT HAS BEEN ADDED TO THE PRICE IN PURCHASES OR DEDUCTED ON SALES ON THE NEW YORK STOCK EXCHANGE THIS AMOUNT IS 1/64 FOR SHARES FOR STOCKS SELLING AT $55 OR ABOVE AND 1/32 FOR STOCKS SELLING BELOW. IN ALL OTHER CASES AN EXPLANATION WILL BE PROVIDED ON REQUEST

BOUGHT 1-221-10-7

1700 CANADIAN JAVELIN LTD
FIRM BUY IN

7

PRINCIPAL 11900.00

0-237300601033007911 C000 241

SAMUEL H SLOAN & CO
120 LIBERTY ST
NEW YORK N Y 10006

NET AMOUNT 11,900.00

SETTLEMENT DATE 07/02/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE & CODES.

C 85629

YOU BOUGHT	SECURITY NO.	DESCRIPTION	PRICE
1000	13623 1-10-7	CANADIAN JAVELIN LTD	7 1/4

TRADE DATE AND NO.	YOUR ACCOUNT NO.	REG. REP.	YOUR IRS NO.	CODES A B C D
05107300283003225EC	100C0		231566416	2 1 1

SAMUEL H SLOAN & CO
OMNIBUS ACCOUNT
120 LIBERTY ST
NEW YORK N Y

100C6

PRINCIPAL	7250.00
COMMISSION	61.69
NET AMOUNT	7,331.69
SETTLEMENT DATE	05/17/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE & CODES

Edwards & Hanly
MEMBER FIRM
200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551
(212) 895-5600 (516) 538-4700

MEMBERS
NEW YORK STOCK EXCHANGE INC.
AMERICAN STOCK EXCHANGE

ON OTHER THAN ROUND LOTS NORMALLY 100 SHARES ON ALL EXCHANGES AN AMOUNT HAS BEEN ADDED TO THE PRICE ON PURCHASES OR DEDUCTED ON SALES. ON THE NEW YORK STOCK EXCHANGE THIS AMOUNT IS $.25 PER SHARE FOR STOCKS SELLING AT $55 OR ABOVE AND 12½¢ FOR STOCKS SELLING BELOW. IN ALL OTHER CASES AN EXPLANATION WILL BE PROVIDED ON REQUEST

C 85629

YOU BOUGHT	SECURITY NO.	DESCRIPTION	PRICE
1000	13623 1-10-7	CANADIAN JAVELIN LTD	7 1/8

TRADE DATE AND NO.	YOUR ACCOUNT NO.	REG. REP.	YOUR IRS NO.	CODES A B C D
05107300693003225EC	100C0		231566416	2 1 1

SAMUEL H SLOAN & CO
OMNIBUS ACCOUNT
120 LIBERTY ST
NEW YORK N Y

100C6

PRINCIPAL	7125.00
COMMISSION	61.71
NET AMOUNT	7,206.71
SETTLEMENT DATE	05/17/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE & CODES

Edwards & Hanly
MEMBER FIRM
200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551
(212) 895-5600 (516) 538-4700

MEMBERS
NEW YORK STOCK EXCHANGE INC.
AMERICAN STOCK EXCHANGE

ON OTHER THAN ROUND LOTS NORMALLY 100 SHARES ON ALL EXCHANGES AN AMOUNT HAS BEEN ADDED TO THE PRICE ON PURCHASES OR DEDUCTED ON SALES. ON THE NEW YORK STOCK EXCHANGE THIS AMOUNT IS $.25 PER SHARE FOR STOCKS SELLING AT $55 OR ABOVE AND 12½¢ FOR STOCKS SELLING BELOW. IN ALL OTHER CASES AN EXPLANATION WILL BE PROVIDED ON REQUEST

C 85629 287475

YOU BOUGHT	SECURITY NO.	DESCRIPTION	PRICE
3500	13623 1-10-7	CANADIAN JAVELIN LTD FIRM BUY IN AS OF 05/21/73	7

TRADE DATE AND NO.	YOUR ACCOUNT NO.	REG. REP.	YOUR IRS NO.	CODES A B C D
05227301514039007811	10000			2 4 1

SAMUEL H SLOAN & CO
120 LIBERTY ST
NEW YORK N Y

10006

PRINCIPAL	2450.
NET AMOUNT	24,50.
SETTLEMENT DATE	05/24/73

WE CONFIRM THE ABOVE TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS HEREON AND THE REVERSE SIDE HEREOF. SEE REVERSE SIDE FOR EXPLANATION OF TYPE

Member of the New York and
American Stock Exchange, Inc

200 North Franklin
Hempstead, NY 11551
Telephone 516 538 4700

Edwards & Hanly

DATE 5-22-73

TO SAMUEL H. SLOAN
~~170 LIBERTY ST.~~
N.Y. N.Y.

CONFIRMATION OF EXECUTION OF BUY-IN

RE: 3500 CANADIAN THALIN

WHICH WAS DUE FROM YOU ON SETTLEMENT DATE A/C STOCK LOAN

YOU HAVE BEEN BOUGHT IN ON THE ABOVE SECURITY AT THE PRICE OF

@ 7 5/21/73 .

VERY TRULY YOURS,

EDWARDS & HANLY

BUY-IN DEPARTMENT

A-323

SAMUEL H. SLOAN
11 BROADWAY • ROOM 403
NEW YORK, NEW YORK 10004
(212) 344-2410

May 10, 1973

Edwards & Hanly
52
Whitehall
New York, N.Y.

att: Bob Della

Dear Sir,

Please accept the return of 500 shares Canadian Javelin Ltd at 7 Cents ea

J26875-4
J26866-7

Face Val $3500.00

Very truly yours
Samuel H. Sloan

ACCOUNT OF MARK TO MARKET, PREMIUM, INTEREST, ETC.

NEW YORK 5/21 1923
SETTLEMENT DATE

STOCK CLEARING CORPORATION

1/2/ 1923
CONTRACT DATE

ISSUED BY EDWARDS & HANLY #247
NAME AND NUMBER STAMP OF ISSUING MEMBER (PAYEE)

SHARES OF BONDS	SECURITY
$300	Canadian Javelin A/c A.F. Aben

SUBJECT TO THE BY-LAWS AND RULES OF STOCK CLEARING CORPORATION

TO Samuel H. Sloan & Co.
NAME AND NUMBER STAMP OF PAYING MEMBER (PAYER)

IF MARK TO MARKET IS MADE AFTER DELIVERY TIME THIS COPY TO BE FORWARDED TO STOCK CLEARING CORPORATION

CONTRACT PRICE	VALUE	
	54	300 —
NEW CONTRACT PRICE		
	56	300 —
NET DIFFERENCE	2	000 —
PREMIUM, INTEREST, ETC.		
FINAL AMOUNT	2	000 —

11 6 Mar 5

h. Many [illegible] requests a [illegible]
called the [illegible] York, N.Y. At
this rest [illegible] loan clerks negotiate
major fi [illegible] he lending and borrowing
of sec [illegible] is not now and never has
been a [illegible] him that this bar is the
focal point for [illegible] ess. In any event certain

A--325

Edwards & Hanly

NOTICE OF BUY-IN

UNDER THE UNIFORM PRACTICE CODE

OF THE

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

5/18/73
DATE

11 (2) 2 a dbug.

TO Samuel Sloan

RE: 5800 Canadian Javelina
(Quantity and Description of Security)

which is due from you to the undersigned on a contract made on _____

_____ at A/C Stock Exv Maturing on
(Date of Contract) (Contract Price)

_____
(Date of Maturity of Contract)

We hereby notify you that unless you make delivery of the foregoing security at or before 11.30 5/21/73
(Time and Date)

The security will be bought in for your account and risk in accordance with the Uniform Practice Code of the National Association of Securities Dealers, Inc.

EDWARDS & HANLY

EDWARDS & HANLY

By BY Steve Lehman

Attorney

PAY TO THE ORDER OF Edward L. Hardy $ 300.00

DOLLARS

FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

Samuel H. Sloane

⑈000554⑈ ⑆0210⑈0008⑆ 093173 ⑈0000300000⑈

767

SAMUEL H. SLOANE & CO.

June 13 19 73 1-9/210 1

PAY TO THE ORDER OF Edward L. & Hardy DATE $ 25.00

THE SUM 25 DOLS 00 CTS DOLLARS

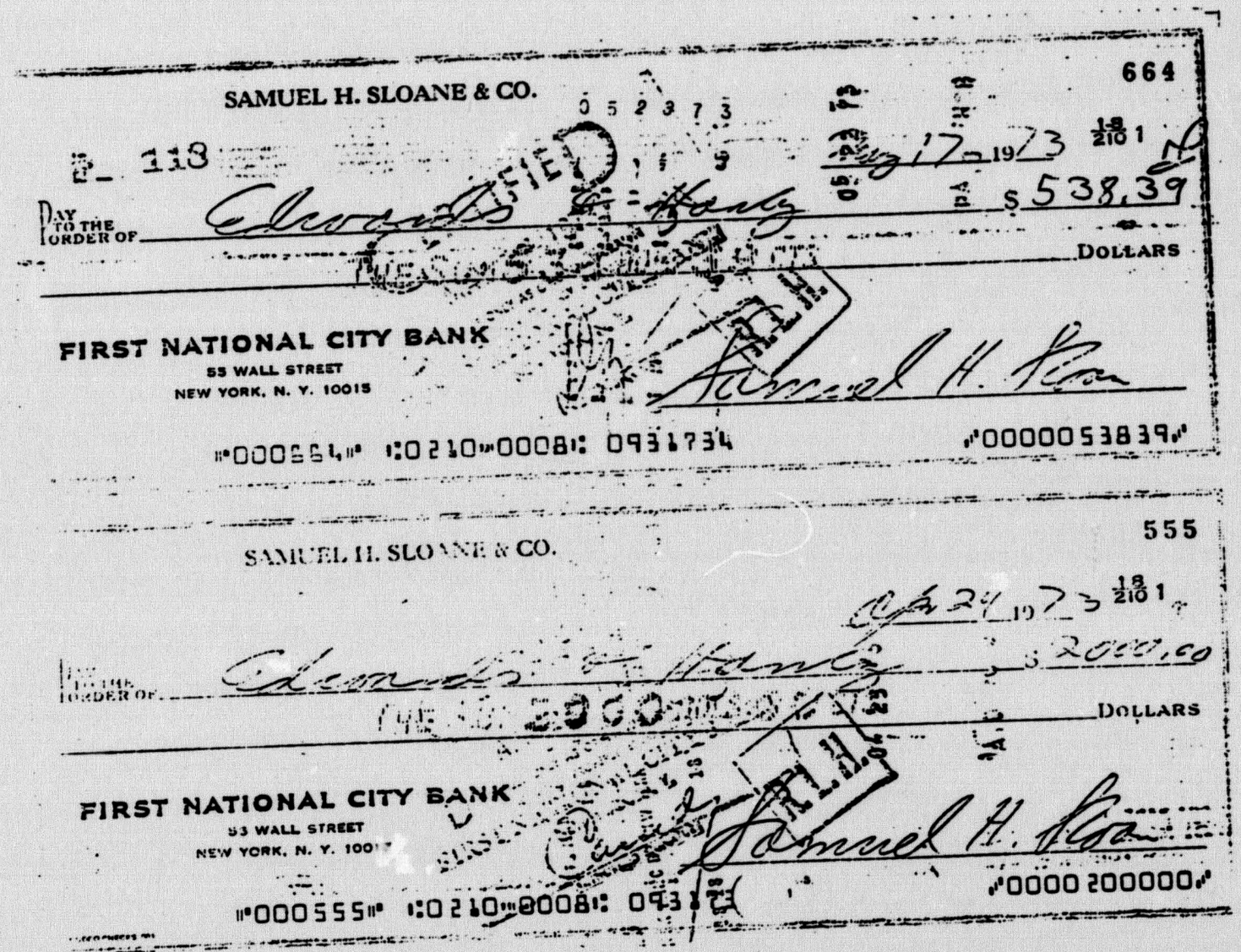
FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

Samuel H. Sloane

⑈000767⑈ ⑆0210⑈0008⑆ 0931734 6⑈ ⑈0000002500⑈

PLOCO CHECKS 001

A-326



SAMUEL H. SLOANE & CO.

664

0 5 2 3 7 3

P_ 113

Aug 17 1973 18/210 1

PAY TO THE ORDER OF Edward S. Hardy $ 538.39

DOLLARS

FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

Samuel H. Sloan

⑈000664⑈ ⑆0210⑈0008⑆ 0931734 ⑈0000053839⑈

SAMUEL H. SLOANE & CO.

555

Aug 24 1973 18/210 1

PAY TO THE ORDER OF Edward S. Hardy $ 2000.00

DOLLARS

FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

Samuel H. Sloan

⑈000555⑈ ⑆0210⑈0008⑆ 0931734 ⑈0000200000⑈

A-327

SAMUEL H. SLOANE & CO.

May 2 1923 12-210 1

Edwards Hardy $2000.00

DOLLARS

FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

Samuel H. Sloan

"000598" :0210"0008": 093173 "0000200000"

608

SAMUEL H. SLOANE & CO.

May 3 1923 12-210 1

PAY TO THE ORDER OF Edwards Hardy $1300.00

One Thousand Three Hundred DOLLARS

FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

Samuel H. Sloan

"000608" :0210"0008": 093173 "0000130000"

76

SAMUEL H. SLOANE & CO.

12-210 1

DOLLARS

FIRST NATIONAL CITY BANK
55 WALL STREET
NEW YORK, N. Y. 10015

"000764" :0210"0008": 09317346" "0000160000

5 | 25 | 73 SAMUEL [illegible]
[illegible]
NEW YORK [illegible] Y 10[illegible]

Edwards & Hanly
MEMBER [illegible]
200 NORTH FRANKLIN STREET
HEMPSTEAD, NEW YORK 11551
(516) 535-4700
(212) 895-5600

[illegible] | 00761 | COCO
[illegible] ACCOUNT NO. P.R.
[illegible] TYPE OF ACCOUNT
1 CASH
2 MARGIN
3 SPECIAL CV BOND
4 SPECIAL LOAN
7 WHEN ISSUED CASH
8 WHEN ISSUED MARGIN
[illegible] SPECIAL BOND

KINDLY PRESERVE THIS STATEMENT FOR INCOME TAX PURPOSES.

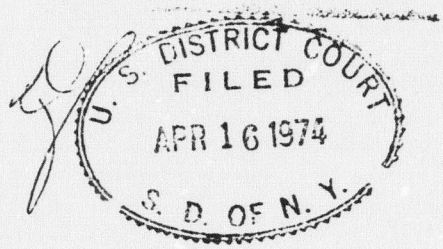
DATE	SECURITIES BUY / SELL	DESCRIPTION	PRICE	AMOUNT DEBIT	AMOUNT CREDIT	LAST ENTRY IN THIS COLUMN IS BALANCE OF THAT ACCT. EXCEPT AS INDICATES DUE YOU		TYPE OF ACCOUNT
5/22		3[illegible] [illegible] JEWELIN LTD	DVP		24500 [illegible]			1
		[illegible]						1
						24500	COCR	
	LONG	[illegible] SECURITY POSITIONS						
		3 CC [illegible] JEWELIN LTD	CAL					1

A-329

E. & O. E.

NOTICE: This statement should be retained as it contains information that may be needed to enable you to verify interest charges appearing on subsequent statements.

[illegible]



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,	:	
Plaintiff,	:	73 Civil 4403
-against-	:	(DBB)
CANADIAN JAVELIN LTD., et al.,	:	NOTICE OF MOTION
Defendants.	:	

S I R:

PLEASE TAKE NOTICE that upon the annexed Affidavit of Lawrence W. Nelson, sworn to on April 12, 1974 and all prior proceedings had herein, defendant Bache & Co., Inc. ("Bache") will move this Court, at a Term for Motions to be held in Room 2703 of the United States Court House for the Southern District of New York, at Foley Square, New York, New York on the 22nd day of April 1974 at 9:30 a.m. in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order that the default judgment entered by the Clerk of this Court on January 9, 1974 (No. 74044) be amended pursuant to Rule 60 of the Federal Rules of Civil Procedure ("FRCP"), and an order, pursuant to Rule 54(b) of the FRCP, determining that there is no just reason for delay in the entry of a final judgment and directing the Clerk to

enter a final judgment on Bache's counterclaim against the plaintiff in this action.

Dated: New York, New York
April 12, 1974

Yours, etc.,

SULLIVAN & CROMWELL

By _____
(A Member of the Firm)
Attorneys for Bache & Co., Inc.
48 Wall Street,
New York, New York 10005.
(212) 952-8100

TO: Samuel H. Sloan, pro se
120 Liberty Street,
New York, New York 10006.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN Plaintiff, -against- CANADIAN JAVELIN LTD. DEFENDANTS,	73 Civil 4403 (DBB) Affidavit in opposition to Motion of Miller-Freeman Publications, Inc.

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS

Samuel H. Sloan, being duly sworn, deposes and says:

1. I have read the affidavit of Jane D. Buswold, sworn to the 8th day of April, 1974 several times. While the wording of the affidavit is unclear, it appears to me that this affidavit states that on or about February 28, 1973, Miller-Freeman Publications, Inc., a California Corporation, purchased certain assets including good will of the magazine WORLD MINING , from the publisher of the February, 197[illegible] issue, MILLER FREEMAN PUBLICATIONS INCORPORATED, a California Corporation.

2. The only difference in name of the two corporations appears to be a dash in between the words Miller and Freeman.

3. I called M ller Freeman Publications at their number listed in the Manhattan telephone directory. The person who spoke to me on the telephone told me that as far as she knew they had been the publisher of

WORLD MINING ever since its inception.

4. I also called the Manhattan information operator for current telephone information. The information operator told me that MILLER FREEMAN PUBLICATIONS (dash immited) was listed at 370 Lexington Avenue with the number MU-3-9294.

5. It appears to me that there has been a name change or a corporate reorganization of some sort. Presumably, because of the slight change in name, Miller-Freeman Publications, Inc., never bothered to change its listing in the telephone book, among other things.

6. It is respectfully submitted that under the circumstances, I effected service on the proper party. There is no indication in the moving papers that there was any other place where service could have been made.

7. In addition, it appears to me that the making of this motion is nothing more than an attempt to delay the adjudication of this controversy. After being served with the summons and complaint on January 8, 1974, the attorney for this Defendant applied to the Court and obtained a 30 day extension of time to answer until on or about February 25, 1974. When that extension of time to answer was about to expire, the attorney for this Defendant called me to request an additional extension of time to answer. He said that I had served the wrong party and that this was a highly "technical" defense. Accordingly, I agreed to extend the time to answer until March 25, 1974.

8. The present motion papers, consisting of a two page affidavit and no memorandum, does not indicate that it was necessary to spend th-

three months researching the issues in question in order to make this motion.

Wherefore, Plaintiff respectfully prays that the motion to dismiss be denied.

Samuel H. Sloan
SAMUEL H. SLOAN

Sworn to before me this
3 day of May, 1974
[illegible]
NOTARY PUBLIC

[illegible] State of New York
[illegible] Kings Co.
[illegible] New York County
Commission [illegible], 19 75

FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civil 4403
(DBB)

Reply to Counterclaim of Bache & Co.

Plaintiff, Samuel H. Sloan replies to the counterclaim of Defendant, Bache & Co. as follows:

1. Denies the averments of paragraph 7 of the counterclaim.

2. Denies the first clause of paragraph 8 of the counterclaim and denies knowledge and information sufficient to form a belief as to the second clause of paragraph 8 of the counterclaim.

FIRST AFFIRMATIVE DEFENSE

3. The counterclaim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

4. The counterclaim is barred by laches.

THIRD AFFIRMATIVE DEFENSE

5. Defendant Bache & Co. is in default by virtue of its failure to answer an amended complaint filed on or about January 2, 1974.

FOURTH AFFIRMATIVE DEFENSE

6. Defendant Bache & Co., failed to provide Plaintiff with monthly statements and confirmations and failed to send Plaintiff any notices including notice of intent to buy-in and notice of confirmation of buy-in.

FIFTH AFFIRMATIVE DEFENSE

7. Defendant Bache & Co. violated Regulation T and other rules and regulations promulgated under the Securities & Exchange Act of 1934.

SIXTH AFFIRMATIVE DEFENSE

8. The shares of Canadian Javelin Ltd., in question were not registered under the Securities Act of 1933 nor were they exempt from registration.

SEVENTH AFFIRMATIVE DEFENSE

9. Defendant Bache & Co. violated rules and regulations of the New York Stock Exchange, the American Stock Exchange and the National Association of Securities Dealers. Defendant Bache & Co. is a member of the New York Stock Exchange, the American Stock Exchange and the National Association of Securities Dealers and is bound by the rules thereby.

Wherefore, Plaintiff demands:

1. Judgement dismissing the counterclaim of defendant Bache & Co.

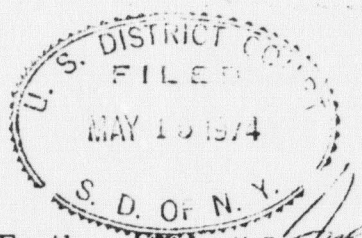
2. That the action by tried by jury.

Dated: New York, New York
May 2, 1974

Samuel H. Sloan

Samuel H. Sloan
Plaintiff, pro se
120 Liberty St.
New York, New York 10006
(212) 835-4512

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants

Further Affidavit In Opposition To Motion Of Defendant World Mining

73 Civ. 4403

DBB

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS

Samuel H. Sloan, being duly sworn, deposes and says:

1. I have obtained a copy of the February, 1973 issue of World Mining. That issue and all prior issues that I have examined state that World Mining is owned by Miller Freeman Publications. A copy of the cover page and two inside pages indicating ownership is attached hereto as an exhibit.

2. From the evidence available to me it appears that no change in ownership of World Mining occured on February 28, 1973 or at any other time. At all times World Mining was owned by Miller Freeman Publications. It is possible that the ownership of the stock of Miller Freeman Publications Inc., changed but that would present an entirely different question of law.

3. I called one of the attorneys for World Mining in an attempt to clarify this matter. I had a long conversation with him but nevertheless

he failed to explain the conflict between the actual issue of World Mining in question and the affidavit submitted in support of the motion.

4. I do not feel that I should be compelled to solve a riddle to explain this difference. I believe that this Court should deny the motion before it unless the attorneys for this Defendant present the facts in a clear manner and accompany their motion papers with a memorandum of law in accordance with Rule 9 (b) of the U. S. District Court for the Southern District Court of New York.

WHEREFORE, Plaintiff respectfully prays that the motion by World Mining be denied.

Samuel H. Sloan
SAMUEL H. SLOAN

Sworn to before me this 15th
day of May, 1974

Jane H. Goldman
NOTARY PUBLIC

JANE H. GOLDMAN
Notary Public, State of New York
No. 31-1485225
Qualified in New York County
Commission Expires March 30, 1975

A-340

FEBRUARY 1973

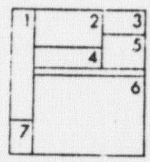
World Mining

CERRO COLORADO—Javelin's Panama porphyry ▷ 32

COMPUTERIZED environmental data referencing ▷ 38

World Mining

VOLUME 26, no. 2 INTERNATIONAL EDITION FEBRUARY 1973



ON THE COVER: Cerro Colorado, Javelin Copper Corporation's Panama porphyry copper deposit in pictures. No. 1. Pulling 1,600 feet of rods from Hole No. 109 to change bit. No. 2. Model of Cerro Colorado showing drill holes and ore grade intersections. No. 3. To the ridge top with sling load of 3,300 pounds of drilling mud. No. 4. Two men carrying sacks of drilling mud on their back to Hole No. 115. No. 5. Driller unscrews drill rod. No. 6. Cerro Colorado from the south showing contour trails and switch back haul road. No. 7. Typical rocks of Cerro Colorado.

Photographs by George O. Argall, Jr.

Cerro Colorado porphyry copper deposit in Panama is a new star in the mining world. WORLD MINING editor flew to Javelin Mining Ltd.'s central American property and reports on the drilling and evaluation of the ore body 32

How Cyprus Mines Corporation uses a tailor-made computer program to store and instantly select and retrieve environmental data 38

Bulgarian mining has advanced rapidly in the past two decades. Copper, lead, and zinc are the major metals. Here is a report on the ore deposits, mines, and metallurgical centers 42

Air geophysical survey of Zambia's Western Province is now complete and interested mining companies can obtain copies of the results 46

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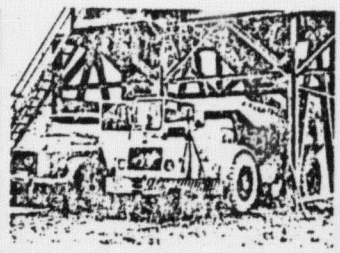
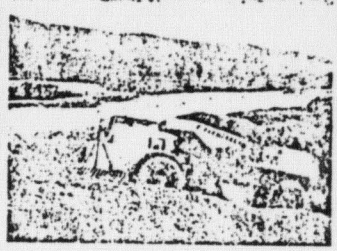
KIRUNA TRUCK

Job reports:

Macadam and crushing plant

Kiruna Grus- & Stenförädling
Kiruna, Sweden
Director Mr. Sven-Erik Hollberg





Gets through more work than two large lorries at less cost than a single lorry.

This firm transports between 500,000 and 600,000 tons of crushed rock per year. Some 200,000 tons of this is screened for use as ballast by the Swedish railways. The supply of raw material is identical with the waste rock hoisted from an iron-ore mine at the same place. The amount of crushed material removed must therefore reach a certain minimum per hour.

The material is collected from a silo and transported to various storage sites where it is emptied on a tip a maximum of about 30 m above the loading level. The distances vary from 150 to 600 m single journey. Continuous operation 24 hours a day, six days a week. Seven months of snowy winter of which five months have arctic temperatures and three months have perpetual night. Good road maintenance.

Extremely low costs per ton

– Previously we had two 9 m³ bogie-lorries but they couldn't keep up with the crusher, says Mr. Hollberg. In 1966, therefore, we bought a Kiruna Truck K-162 with a body volume of 17 m³ and with 42% of its weight on the front axle, which means that it works excellently on ramps with a slope of from 1:8 to 1:10. Has no trouble in keeping up with the crusher and has extremely low costs per ton for these haulages.

– What's more, added Mr. Hollberg, we have five other Kiruna Trucks, four of them are K-500 for ramp working underground.

MINING TRANSPORTATION CO. AB

Box 99, S-981 01 KIRUNA, Sweden
Telex 8751, Cable "KIRUNATRUCK
Telephone 0980-186 20

World Mining

GENERAL OFFICE

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George O. Argall, Jr., E.M., P. Eng. .. Editor

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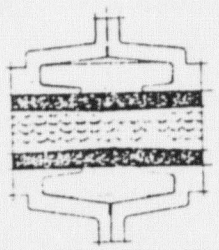

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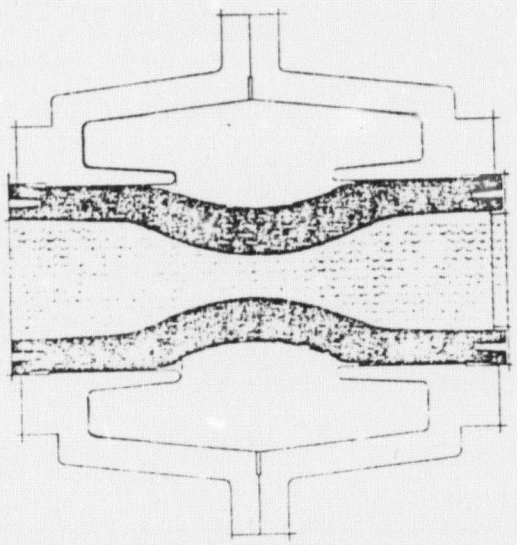

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S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 3801

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants.

73 Civ. 4403

AFFIDAVIT IN OPPOSITION TO MOTION FOR REARGUMENT

DBB

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

EVAN L. GORDON, being duly sworn, deposes and says:

I am a member of the firm of Delson & Gordon, attorneys for the defendants Edwards & Hanly, Arthur Foote, Robert Della and Raymond Aronson in the above-entitled action and submit this affidavit in opposition to the plaintiff's motion for reargument or rehearing of the decision of this Court dated May 30, 1974.

There is nothing presented in the plaintiff's moving papers which has the slightest bearing upon the decision of the Court, which is self-evidently correct and proper. The motion for reargument or rehearing is totally without merit and should be denied in all respects.

Evan L. Gordon

EVAN L. GORDON

Sworn to before me this
13th day of June, 1974.

Mary A Palinkas

MARY A. PALINKAS
Notary Public State of New York
No. 03-3000450
Qualified in Bronx County
Commission Expires March 30, 1975

74

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT
JUN 26 4 59 PM '74
S.D. OF N.Y.

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civil 3801 D.B.B.

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD., et al,

Defendants.

73 Civil 4403 D B B

NOTICE OF APPEAL

SIRS:

Notice is hereby given that the plaintiff, Samuel H. Sloan, hereby appeals to the United States Court of Appeals for the Second Circuit from all those parts of the opinion dated May 30, 1974 and the order of the Honorable Dudley B. Bonsal entered in this action on June 7, 1974 wherein it was ordered that:

(1) The amended complaint, filed on December 29, 1973, be and the same hereby is dismissed with costs and with

prejudice as to all defendants except Canadian Javelin Ltd., John C. Doyle and William M. Wismer.

(2) The amended complaint, filed on December 29, 1973, be and the same hereby is dismissed without prejudice as to Canadian Javelin Ltd., John C. Doyle and William M. Wismer.

(3) The motion by defendant Bache & Co. Incorporated for a final judgment on its counterclaim pursuant to Rule 54(b) of the Federal Rules of Civil Procedure be and the same hereby is denied.

(4) The default judgment (# 74044) of Bache & Co. Incorporated is hereby set aside and the counterclaim of Bache & Co. Incorporated is hereby dismissed without prejudice, there being no indpendent grounds for jurisdiction.

and from the decision of the Hon. Dudley B. Bonsal dated June 17, 1974 wherein it was ordered that the motion by Plaintiff for reargument be denied.

Dated: New York, N.Y.
June 21, 1974

Respectfully submitted,
Samuel H. Sloan
Samuel H. Sloan
Plaintiff, pro se
120 Liberty St.
New York, N.Y. 10006

MAY 1 0 1974
S. D. OF N. Y.

SAMUEL H. SLOAN, Plaintiff, -against- CANADIAN JAVELIN LTD., et al., Defendants.	Reply Affidavit To Answering Affidavits Of Bache & Co. 73 Civil 4403 DBB

Samuel H. Sloan, being duly sworn, deposes and says:

1. This is an affidavit in response to the affidavits submitted by the attorneys for Bache & Co. on May 10, 1974.

2. It is true that the number for the telephone listed under the name of Samuel H. Sloan & Co. was disconnected and, in fact, I was in Europe for a two week period during the end of August and the beginning of September, 1973.

3. However, on September 10, 1973 I arrived back in New York City. Thereafter, I adopted the practice of visiting my office at 11 Broadway every evening at around 5:00 P.M. or 6:00 P. M. for the purpose of picking up mail.

4. Bache & Co. never mailed me anything nor did they put any messages through the mail slot to my office. Common sense should have told them to do this, especially since according to their own affidavits, my name was still on the door and the manager of the building told them that I still occupied the office.

5. The rules of the New York Stock Exchange require that confirmation of all purchases and sales for my account be mailed to me. I did not receive in the mail any confirmations of purchases and sales and, for that reason, I assumed that no shares had bought-in.

6. I did not receive notice that the shares had been bought-in until after October 25, 1973, at which time trading in Canadian Javelin Ltd., had been suspended on the American Stock Exchange and its shares thereby had become worthless.

7. I do not believe that Bache & Co., can waive the requirement of mailing of confirmations to me merely by attempting to send me a telegram which obviously never reached me.

Samuel H. Sloan
SAMUEL H. SLOAN

Sworn to before me this 15th
day of May, 1974.

NOTARY PUBLIC

A-349

Samuel H. Sloan
120 Liberty St.
New York, New York 10006
(212) 835-4512
May 13, 1974

Hon. Dudley B. Bonsal
United States District Court
Southern District Of New York
Foley Square
New York, New York

Re: Sloan V. Canadian Javelin Ltd.
73 Civil 4403

Dear Honorable Sir:

In paragraph 48 and 50 of my amended complaint, I referred to prior litigation involving Canadian Javelin Ltd. and John C. Doyle.

Reported cases in this litigation are:

Weiss v. Doyle 178 F. Supp. 566
Finley v. Doyle 178 F. Supp. 863
Armstrong v. Doyle [illegible] N.Y.S. 2d 421
Gittleman v. Doyle 194 N.Y.S. 2d 401
United States v. Doyle 348 F. 2d 715 (1965)
cert. denied. 15 L ed 2d 84

Very truly yours,

Samuel H. Sloan

cc: Diamond & Golomb
Booth & Baron
Lord, Day & Lord
Patterson, Bellknapp & Webb
Sullivan & Cromwell
Delson & Gordon
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FILED
JUN 11 1974
S. D. OF N. Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

SAMUEL H. SLOAN, :

Plaintiff, :

-against- :

CANADIAN JAVELIN LTD., et al., :

Defendants. :

- x

73 CIV 5801 DBB

73 Civ. 4403
(DBB)

ORDER AND FINAL JUDGMENT

The Court having considered the prior proceedings in this action, and the matters submitted to it, and after due deliberation having rendered an opinion dated May 30, 1974, and having determined that a final judgment should be entered; it is hereby

ORDERED, ADJUDGED AND DECREED:

(1) The amended complaint, filed on December 29, 1973, be and the same hereby is dismissed with costs and with prejudice as to all defendants except Canadian Javelin Ltd., John C. Doyle and William M. Wismer.

(2) The amended complaint, filed on December 29, 1973, be and the same hereby is dismissed without prejudice as to Canadian Javelin Ltd., John C. Doyle and William M. Wismer.

(3) The motion by defendant Bache & Co. Incorporated for a final judgment on its counterclaim pursuant to Rule 54(b) of the Federal Rules of Civil Procedure be and the same hereby is denied.

(4) The default judgment (# 74044) of Bache & Co. Incorporated is hereby set aside and the counterclaim of Bache & Co. Incorporated is hereby dismissed without prejudice, there being no independent grounds for jurisdiction.

Dated: New York, New York
June 7, 1974

Dudley B. Bonsal
U.S.D.J.

Judgment entered
June 11th, 1974

Raymond F. Burghardt
Clerk

ORDER OF JUDGE BONSAL ON MOTION RETURNABLE JUNE 17, 1974 --

M O T I O N D E N I E D

EXHIBITS TO APPENDIX

MEMORANDUM DECISION OF EGETH, J.

SUPREME COURT : NEW YORK COUNTY
TRIAL TERM : PART 18

(Same Title)

EGETH, J.:

This action in which the defendant Samuel H. Sloan, d/b/a Samuel H. Sloan & Co. appeared pro se, was tried by the Court without jury.

Plaintiff commenced an action to recover the sum of $6611.42, representing the cost of purchase of 4000 shares of a certain stock, together with the commissions ordinarily payable by reason of such sale. At trial, plaintiff agreed to waive its claim of commissions and thereby reduce the total amount of its claim to $6264.42.

Defendant interposed a number of counterclaims totaling $7,018,000 based upon a variety of causes of action in contract, tort and for punitive damages. After a conference with the Court prior to and during the commencement of the trial, during which the various counterclaims were analyzed, the Court granted motions to dismiss all counterclaims predicated upon tort and punitive dam-

ages, which totaled $7,000,000. The Court also reduced the counterclaim asserted by the defendant in the sum of $18,000 to $13,000. After the said dispositions, the sole remaining counterclaim was defendant's counterclaim in the sum of $13,000 claimed to have been the price that plaintiff agreed to pay to defendant upon delivery of 1000 shares of Canadian Javelin Ltd. stock.

At trial the Court found the following facts: The defendant Sloan & Co. was functioning as a broker-dealer with authorization from the Securities & Exchange Commission as a partnership until January 1, 1973. Thereafter, the partnership terminated, the Securities & Exchange Commission rejected a proposed amendment to the broker-dealer authorization in the sole name of Samuel H. Sloan, but the defendant Sloan & Co. continued to operate as if its broker-dealer authorization had been unchanged. It further appears that following a hearing by the Securities & Exchange Commission, an order was entered on April 24, 1973 revoking the broker-dealer registration of Sloan & Co., and barring Samuel H. Sloan

individually from association with a broker-dealer, but that said order has not become final pending administrative appeal. At all times hereinafter referred to, the defendant Sloan & Co. was not a member of any listed exchange nor a member of the N.A.S.D.

The testimony reveals that in July of 1973 the defendant had a cash omnibus account with plaintiff Edwards & Hanly, and also a stock loan account. In said month the defendant placed orders to sell 4000 shares of Canadian Javelin Ltd. stock with plaintiff. It is unrefuted that at the time the orders were placed defendant did not have the shares representing such sales in his possession and was engaged in short selling. Plaintiff was unaware at the time it received the orders that they represented short sales in a cash account. Expert testimony disclosed that such short sales in cash accounts by defendant, without possession of sufficient shares for consummation, constituted a violation of the margin requirements set forth by the Federal Reserve Board and particularly in Regulation T of its regulations, to

which all broker-dealers and all securities exchange transactions are subject. Such condition is also violative of Section 10A-1 of the Securities and Exchange Act and the Rules and Regulations of the American Stock Exchange. (Rule 425 and Rule 411). Violations by defendant also unwittingly placed the plaintiff, Edwards & Hanly, in a position in which it was in violation of the very same Rules and Regulations.

There is uncontroberted testimony that some time thereafter the American Stock Exchange communicated with plaintiff and made inquiry as to the sales in question. In so doing, the plaintiff was advised that the defendand was engaged in similar types of short sales in cash accounts with other brokerage houses. This alerted plaintiff to the fact that it was in violation of numerous regulations by virtue of the transaction. Plaintiff immediately sought to clarify and remedy its legal position by covering the short sales. Unrefuted testimony disclosed unsuccessful telephone attempts to reach the defendant in order to advise the defendant of an intent

to purchase the 4000 shares of stock required to cover in the open market. The shares were purchased by the plaintiff to rectify its legal position, which prior notice to the defendant, and as a result thereof plaintiff sustained a loss of the difference between its purchase price and the price of the short sales, which came to $6264.42.

The day following this purchase, defendant communicated with plaintiff and offered plaintiff 1000 shares of Canadian Javelin Ltd. stock which then had a market value of $13 per share. The said stock was delivered to the office of the plaintiff following an oral agreement to immediately pay the sum of $13,000 to the defendant as the proceeds of said stock. After delivery of the stock, and while defendant was awaiting the receipt of a check in the sum of $13,000, a senior officer of plaintiff communicated to the defendant that payment would not be made, and that the shares delivered into its possession would be retained until such time as the defendant's account with plaintiff was placed in balance.

Memorandum Decision of Egeth, J.

The failure to deliver the $13,000 provides the basis for the defendant's counterclaim. It appears that subsequent thereto, in an effort to buttress legal position, plaintiff procured an ex parte order of attachment for the 1000 shares in question and maintains the position that it was retaining possession thereof for the account of defendant until clarification of the rights of the parties and the respective equities, one to another.

In defense of plaintiff's main action, defendant contends that plaintiff was not authorized to purchase the 4000 shares of stock to cure the short sale of the defendant, without giving the defendant prior notice of an intention to so do and an opportunity to cure his position.

The Court took extensive testimony from expert authorities as to the legal requirements and the customs in the industry with respect to the necessity of providing defendant prior notice of the intention to buy. On the basis thereof, the Court determines that there is no legal regulation or statute which affords

Memorandum Decision of Egeth, J.

the defendant any right to prior notice under the circumstances in this case. Said testimony further disclosed that there are certain practices and customs requiring notice extant between brokerage firms which are members of the American Stock Exchange and/or NASD. They are not however applicable to the instant transaction inasmuch as the defendant is neither a member of the American Stock Exchange nor the NASD. The expert testimony clearly revealed the necessity of immediate efforts by the plaintiff to purchase the stock in question, and to thereby cure its position of violation of appropriate regulations in which it had been placed by defendant's action.

Upon the basis thereof, this Court determines that plaintiff acted properly in so doing and that the defendant is liable to plaintiff for all loss arising out of the transaction, despite the fact that defendant received no immediate prior notice of the intention of plaintiff to purchase the stock. Accordingly, judgment is awarded to plaintiff in the sum of $6264.42 on this

main chase of action, together with the interest demanded in the complaint.

With respect to the counterclaim of the defendant, it is uncontroverted that the 1000 shares were delivered into the possession of the plaintiff pursuant to an express promise to pay $13,000 almost simultaneously therewith. The plaintiff does not deny the allegations with respect thereto in its pleadings and the factual allegations are therefore deemed admitted. Plaintiff contends that notwithstanding this express agreement, it is not bound by the promise of any lower level employee who made such representation to defendant, and further, in any event, that the transaction was subject to a resolution of all outstanding balances in the defendant's account. Defendant maintains that the stock was only delivered in response to the express promise to pay $13,000 and that the delivery thereof constituted a consummated transaction which created an obligation from plaintiff to defendant in the sum of $13,000. In an attempt to support its argument, the plaintiff

offered into evidence a copy of the receipt, acknowledged to be given to defendant, which contains thereon the legend, "subject to count" and/or "subject to count and examination." This Court determines that such legend had no effect upon the transfer of title of the stock from the defendant to the plaintiff unless in fact the number of the securities in question was not that which it was described to be. This Court further determines that notwithstanding the desires of the plaintiff Edwards & Hanly to balance out its accounts and recover any monies which might to be due to it from the defendant, the transaction involving the delivery of the 1000 shares of Canadian Javelin Ltd. stock constituted a present sale by defendant and transfer of title to plaintiff of the said stock at the moment of its delivery in exchange for plaintiff's promise to pay the sum of $13,000. Once title passed from the defendant to the plaintiff, the risk of loss arising from depreciation of the value of the stock, or the right to any gain arising from an appreciation of the value of the stock,

remained with plaintiff. The fact that plaintiff misconstrued its legal position, and subsequently attempted to justify its retention of the stock by procuring an attachment order, is wholly irrelevant to the acutal ownership rights of the parties. At the time of the procurement of the attachment, plaintiff already owned the stock, and in effect procured an order attaching its own property, which obviously is a legal nullity. The plaintiff is accordingly obligated to make payment to the defendant in the sum of $13,000 in accordance with its contract at the time of the delivery of the 1000 shares into its possession. (Plaintiff stipulates to the $13,000 amount although the exact amount might have been $12,852.13).

Plaintiff is entitled to set off the $6264.42 owed to it against the $13,000 which it owes the defendant on the counterclaim. Accordingly, after deduction of the said sum of $6264.42 from the $13,000 owed to defendant, defendant is entitled to judgment against the plaintiff on its counterclaim in the net sum of $6735.58. Defend-

Memorandum Decision of Egeth, J.

ant may therefore enter judgment against the plaintiff in the aforedescribed sum of $6735.58, with interest thereon from August 15, 1973. Said judgment shall not include costs in view of plaintiff's recovery in the main action.

This constitutes the decision of the Court pursuant to the provisions of Section 4213 CPLR.

Dated: November 26, 1974

s/ M.E.
J.S.C.

SHANLEY N. EGETH

FILED
NOVEMBER 27, 1974
NEW YORK
COUNTY CLERK'S OFFICE

Form C

A-366

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on May 27, 1975.

Present—Hon. Harold A. Stevens, Presiding Justice
Francis T. Murphy, Jr.,
Vincent A. Lupiano
Louis J. Capozzoli,
Emilio Nunez, Justices.

Edwards & Hanly, a Limited Partnership,

Plaintiff-Appellant-Respondent,

-against-

Samuel H. Sloan, d/b/a Samuel H. Sloan & Co.,

Defendant-Respondent-Appellant.

420-29

Cross-appeals

An appeal having been taken to this Court by the plaintiff-appellant-respondent and by the defendant-respondent-appellant

from a judgment of the Supreme Court, New York County

(Lupiano, J.), entered on December 9, 1974, adjudging that plaintiff recover of defendant the total sum of $14,025.70 and that defendant recover of plaintiff the total sum of $7,267.02, and an appeal having been taken by plaintiff-appellant-respondent from an order of said court entered on January 13, 1975, denying its motion to set aside the prior decision and for a new trial with respect to defendant's counterclaim and said appeal having been argued by Mr. Evan L. Gordon

of counsel for the appellant, and by Mr. Samuel H. Sloan, defendant-respondent-appellant pro se,

of counsel for the respondent; and due deliberation having been had thereon, and upon the memorandum decision of this Court filed herein,

It is unanimously ordered that the judgment

so appealed from be and the same is hereby modified, on the law and on the facts,

to the extent of dismissing defendant's counterclaim and reducing plaintiff's recovery to $5,662.50 and, as so modified, the judgment is affirmed, without costs and without disbursements.

It is further unanimously ordered that the order so appealed from be and the same is hereby affirmed, without costs and without disbursements.

ENTER:

HYMAN W. GAMSO

Clerk.

Stevens, P.J., Murphy, Lupiano, Capozzoli, Nunez, JJ.

423-29 Edwards & Hanly, etc.,
Plaintiff-Appellant-Respondent, E.L.Cordon

-against-

Samuel B. Sloan, etc.,
Defendant-Respondent-Appellant. Pro Se

Judgment, Supreme Court, New York County, entered on December 9th, 1974, after trial (Egeth, J.), awarding defendant judgment in the sum of $7,267.02, unanimously modified on the law and on the facts to the extent of dismissing defendant's counterclaim and reducing plaintiff's recovery to $5,662.50 and, as so modified, the judgment is affirmed, without costs and without disbursements. Order entered on January 13th, 1975, denying plaintiff's motion for a new trial with respect to the counterclaim, affirmed, without costs and without disbursements.

The Trial Court improperly awarded defendant judgment on his counterclaim. The delivery by defendant of the 1000 shares of Canadian Javelin did not, as found by the Trial Court, constitute a sale by defendant and transfer of title to plaintiff. Once it became apparent that defendant had, on his own behalf, engaged in short selling, as prohibited in the account, which defendant maintained with plaintiff, the latter acted properly in buying-in. When defendant thereafter delivered the 1000 shares of Canadian Javelin, plaintiff was entitled to assert a

lien thereon as pledgee. Plaintiff did not become the purchaser of the 1000 shares. The counterclaim is dismissed.

The Trial Court correctly validated plaintiff's action in buying the defendant in, but it miscalculated the difference between the selling and reacquisition price of the 4000 shares of Canadian Javelin ~~XXXXX~~ so purchased, the actual difference being only $5,662.50. Plaintiff's recovery should be so reduced. There is no merit to defendant's claim that plaintiff could not buy-in without first notifying him. Moreover, such failure to notify defendant was of no moment since defendant could not have

Appeals Nos. 428-29 continued

prevented the buy-in as he did not have the shares to tender.

We have examined the other contentions of defendant and find them to be without merit.

Order filed.

Stevens, P.J., Murphy, Lupiano, Capozzoli, Nunez, JJ.

M-1189 Edwards & Hanly, etc. v. Samuel H. Sloan, etc.

Motion to dismiss appeal denied in view of the determination of this Court on Appeals Nos. 428-29 decided simultaneously herewith. Order filed.

9717 /74

112 & 113 of 11/20/73

PRESSMAN, [illegible] & FROST, INC.,

Plaintiff,

Albert P. Williams

SAMUEL H. [illegible] d/b/a
SAMUEL H. [illegible] & CO.,

Defendant

Plaintiff moves for summary judgment on two causes of action; breach of contract and an account stated.

Plaintiff alleges it was required to purchase and turn over 1000 shares Canadian Javelin Ltd common stock when the defendant failed to deliver to them 1000 shares of the stock he had engaged plaintiff to sell for him. A difference in price of $4075.15 resulted in plaintiff having to buy at a higher price than they had previously sold the stock.

Defendant's answer contained no affirmative defenses and merely states that he denies knowledge and information sufficient to form a belief as to the two causes of action.

In the affidavit in opposition to the motion for summary judgment defendant argues that, (1) plaintiff submitted no proof that he was its customer; (2) the Federal Court has jurisdiction of the matter; (3) the pendency of a federal lawsuit initiated by him; (4) that plaintiff herein should assert a counterclaim under Rule 13a of the Federal Rules of Civil Procedure.

Plaintiff cites section 8-319(c) of the Uniform Commercial Code in support of its motion. It is claimed that the defendant received written confirmation of the sale of the securities and failed to send written objections to its contents within ten days after receipt.

xxx

over

The defendant by cross motion seeks an order of this court removing this action to the U.S. District Court of the Southern District, where he has pending his civil suit against thirty defendants, including the plaintiff.

The defendant's motion must be denied. There is no basis upon which this court may grant defendant's relief for removal. This court is without any power to remove a case pending before it to the Federal District Court.

On plaintiff's motion, this court is not persuaded UCC 8-319(c) has application in plaintiff's motion for summary judgment. That section has application where a broker buys or sells securities as a principal, not as an agent for his customer. (Practice Commentary, Carlos L. Israels, UCC 8-319). Where the broker acts as an agent; the contract between broker and customer is not for the sale of securities. It is a contract of employment, the terms of which may be spelled out on a margin card, signed by the customer and filed with the broker. (Ibid).

This court has jurisdiction of the subject matter, the amount sued for is within the monetary jurisdiction of this court. There is nothing found in federal statute or elsewhere which in any way deprives this court determining the issues presented here.

The plaintiff has submitted documentary evidence of the transaction underlying this law suit. The defendant has submitted no proof of any timely objection to it and has failed to put in issue any fact alleged in the complaint. (Simmons v. Sintora, 36 Misc. 2d 409).

Plaintiff's motion for summary judgment is granted in the sum of $4075.15.

Dated: January 11, 1974

J.C.C.